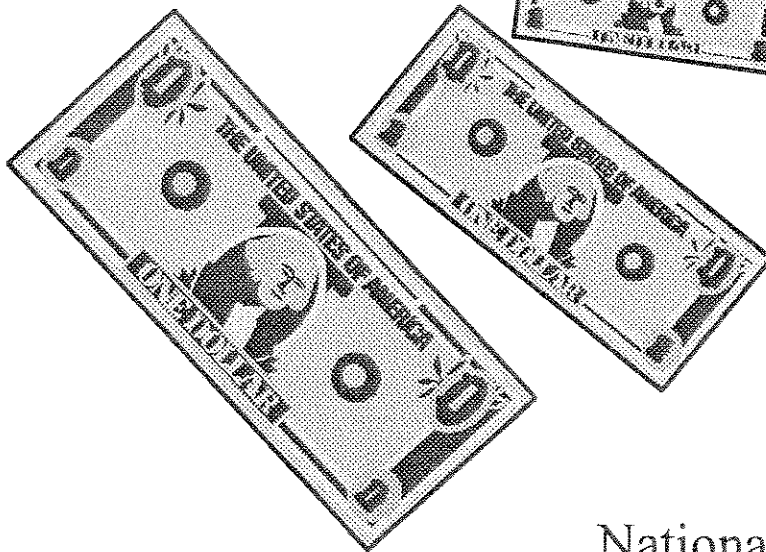
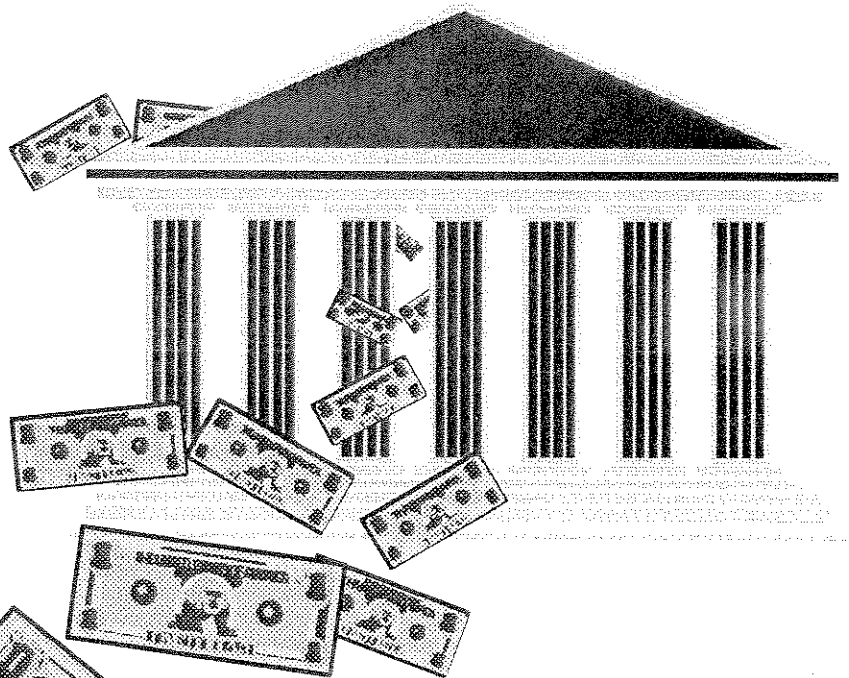
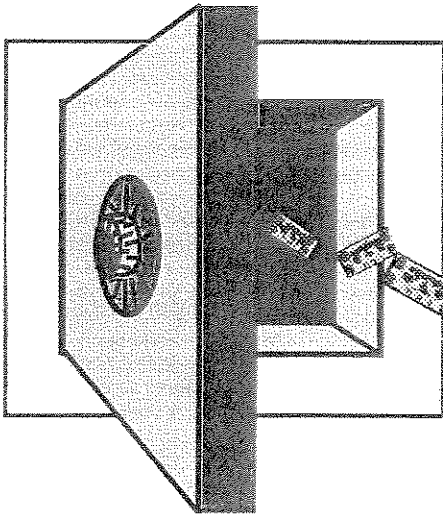


INTERNAL CONTROL OF COURT-COLLECTED FUNDS



National Center for State Courts



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Court-Collected Funds

by

Robert W. Tobin

National Center for State Courts

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INTRODUCTION

This is a technical monograph designed for the professional court administrator. It addresses the means by which courts protect the integrity of the financial processes for collection and disbursement of moneys received by the court in the form of fines, forfeitures, fees, costs, escrow funds, user charges, and pass-through funds (i.e., support and restitution). This aspect of court financial management reflects a significant business dimension of courts as public institutions. Nationally courts process an estimated \$10-15 billion annually in fines and other payments, most of which must be distributed to a variety of public or private accounts. The internal control courts exercise over these funds represents a major court responsibility to the public.

As used in this monograph "internal control" is defined as follows:

Internal control comprises the plan of organization and all of the coordinate methods and measures adopted by a court to safeguard its assets, to check the accuracy and reliability of its accounting data, and to compel adherence to management policies protecting the integrity of the court's process for receipt and distribution of court-collected funds.

The monograph is based upon the *NACM Trial Court Financial Management Guide*, specifically Section 30 of the guide which deals with internal controls. This monograph is the second in a series of monographs based on the materials in the Guide (the first being *Managing Budget Cutbacks*).¹ These monographs are made possible by the support of the National Association for Court Management (NACM) and its leaders who have continuously supported the development of the Guide and its byproducts. Special acknowledgment is given to the State Justice Institute, which funded the creation of the Guide and the compilation of information upon which this monograph draws.

¹ Pankey and Tobin, *Managing Budget Cutbacks*, National Center for State Courts, Williamsburg, Virginia, 1994. Developed under Grant SJI-93-05C-B-017.

SUMMARY

This monograph is based on the premise that court managers have a major responsibility for exercising control over court-collected funds. The monograph addresses the means by which this control is exercised effectively and efficiently. The principal points made in the monograph are listed below:

- (1) Court managers should define the responsibility for internal control of court-collected funds and lay out a scheme for discharging this duty.
- (2) Court managers should be familiar with and monitor carefully the cash control procedures of the court.
- (3) Cash accounting should not be regarded as a minor bookkeeping routine and should be under continuous management supervision.
- (4) Court managers should take a particular responsibility for close oversight of employees and supervisors engaged in handling of money and for protecting the courts against loss or misappropriation of court-collected funds.
- (5) The selection of a depository is an important function that should be performed by or carried out in close consultation with the court manager.
- (6) The audit function is an integral element of management control and should not be regarded as extraneous to court management.
- (7) Court managers are responsible for controlling the whole process of collection, not just the funds collected, to ensure that courts receive what they are due.
- (8) Court managers have a special responsibility for administering escrow accounts and for the integrity of the process by which funds are processed through the court on their way to the ultimate point.
- (9) Court managers have a special management responsibility to ensure that any funds authorized for use by the court itself are governed by procedures that ensure their proper use.

I. SCOPE OF THE PROBLEM

Each year billions of dollars flow into trial courts. The amounts being collected are increasing because many appropriating bodies have been transforming courts into revenue collection or custodial agents and making them more self-supporting. The sheer volume of money handled in high-volume courts rivals that of large businesses or small banks.

Courts bear a heavy public responsibility for protecting these monetary receipts. The discharge of this responsibility is, however, rendered difficult by a number of factors that are particularly applicable to trial court systems.

Complexity of fine and fee structures: The state statutes and court rules that establish the structure of fines, forfeitures, fees, costs, and charges are numerous, volatile, sometimes unclear, often complex, and occasionally archaic. Taken as whole, fine, fee, and cost systems are complicated, making it difficult for courts to determine exactly what amounts should be assessed and collected.

Variety of money flows: Three different types of money flow into trial courts. Each has its own distinct characteristics and requirements, and each requires a different set of control procedures.

- *Government receipts* to be distributed to government general funds, government special funds, elected court officer funds, or internal court funds;
- *Escrow or registry funds* received by the court in its capacity of custodian or fiscal agent or as a temporary holder pending a court action or expiration of a time period;
- *Pass-through funds* processed almost immediately through the court for a payee named in a court order.

Multiple intake points: Most courts receive money at many locations in the court, in outlying deposit boxes, and by mail. The multiplicity of intake points is a major challenge to internal control.

Multiple cases: Most court receipts are case-related and are tied into the court's case record-keeping system. The ties between the court's case record systems and the court's accounting systems vary in quality. Occasionally, the court's cash accounting system is not equal to the task of handling its case volume.

Processing center or centers: After intake, money flows through a process of accounting, deposit, and distribution; each point has its own vulnerability. The processing point may be remote from the intake points; there may be more than one processing point; there may be weak controls over the transport and deposit of money; and there may be weak processes of reconciliation as money moves from point to point.

Lack of clearly defined management responsibility: Courts frequently exhibit a diffusion or, more commonly, an overlap in responsibility for court-generated funds, with no one identified official having overall responsibility. Clerks, probation offices, sheriffs, court administrators, bail commissioners and various other officials may all have some role. The judiciary may not feel that the collection is a court responsibility, or at least not a high-priority responsibility, and may therefore not feel a strong managerial responsibility for imposing an effective system of controls.

Automation: The level of automation may not be proportionate to the volume or variability of the money flows, leaving the system vulnerable to the problems of any manual or semi-automated system that is overburdened.

Staffing: Court personnel turnover, lack of training, supervision, and protective bonding, and failure of managers to adequately assign responsibilities and accountability may constitute hazards for the control of the money flowing through courts.

Conclusion: While none of these factors is unique to courts, their combination in many courts suggests that courts are particularly vulnerable to the mishandling of money and even defalcation. For this reason, and because courts are public institutions that must retain high trust from the public they serve, the prevention of problems in this sensitive area is a major court management responsibility.

II. DEFINING MANAGEMENT RESPONSIBILITY FOR INTERNAL CONTROLS

A. Acceptance of Management Responsibility

By far the most important step in establishing internal controls is an initial commitment by management. Unfortunately, it is not always clear in a court system where management responsibility for this activity lies. In many courts, responsibility for the internal control of money is divided among various managers. As a result, responsibility is often poorly defined and some responsibilities fall between the cracks for lack of a comprehensive overview of the process. Exacerbating the problem is the fact that some court officials, like many other public officials, view internal control as a technical matter to be relegated to accountants and auditors, rather than as a significant managerial concern. The fundamental issues of management responsibility can be stated as follows:

Does the court and its top management perceive internal control as a management responsibility?

If so, how do they distribute this management responsibility?

The issue of management responsibility is common to all branches and levels of government. The federal government has addressed it through the Federal Managers Integrity Act of 1982 (31 U.S.C. §3512). This act correctly:

- places primary responsibility for adequate systems of internal control and accounting on managers, not auditors and accountants;
- requires managers to assess their internal control systems and accounting systems annually; and
- requires managers to report any material weaknesses and corrective actions taken.

The philosophy underlying this act has particular application to courts because they process a large volume of payments and must demonstrate the highest standard of adherence to law.

B. Scope of Management Responsibility

There are, however, limits to management responsibility for money handling. The parameters are determined by:

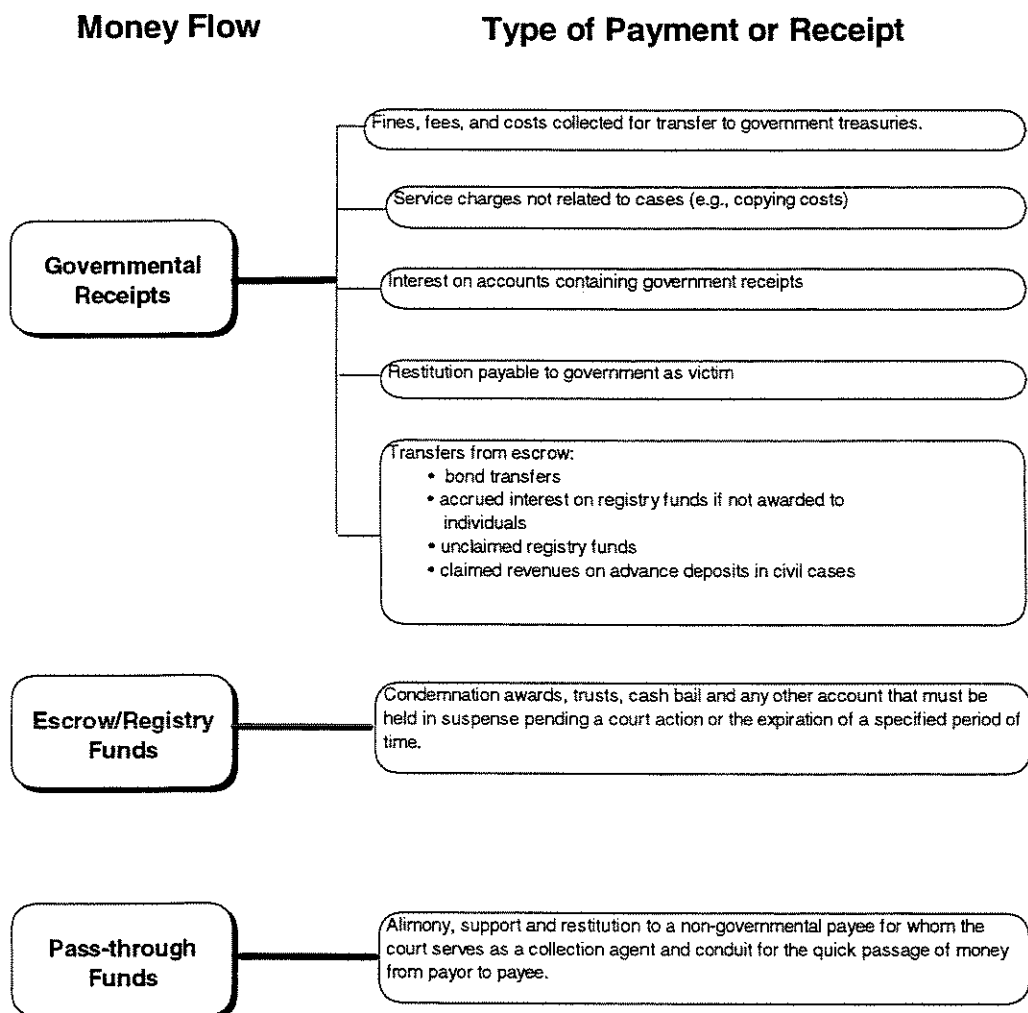
- the range of payments for which the court is legally responsible;

- the span of court control, normally from intake until money reaches the designated distributee; and
- the types of money flows into the court.

Of the three, span of control is the easiest to define. The court simply states the point at which its management responsibility ends. The scope of responsibility is harder to define because of various types of money flows in the court and the broad range of payments for which a court may be responsible. Figure 1 shows three types of money flows for which the courts are typically responsible and the different range of payment forms and receipts characterizing each.

FIGURE 1

PRINCIPAL MONEY FLOW IN TRIAL COURTS



Each court's chart of accounts should list specific types of payments within the above categories. Most payment types can be treated generically for financial management purposes. Most fines, for example, are usually distributed in the same way,

regardless of amount or the offense for which they are ordered; they can be treated generically for accounting and bank account purposes. Some fines, fees, and costs, however, have a unique distribution pattern (e.g., drug fines that are earmarked for a Drug Abuse Prevention Fund) and should be categorized separately. For any court, therefore, the scope of its management responsibility will be determined largely by carefully laying out a chart of specific accounts that reflects the scope of the court's legal obligations.

C. Nature of Management Responsibility

The responsibility of a court for these flows of nonappropriated court-collected funds can be defined in terms of the following objectives:

- to ensure that the money intake process provides no opportunity for defalcation;
- to separate vital money-handling functions so that accountability is clear and aberrational behavior can be identified;
- to ensure proper and secure deposit of all funds received;
- to maximize the services and interest provided by depositories;
- to ensure that the cash accounting system meets professional standards and legal requirements;
- to ensure timely and accurate distribution of funds;
- to ensure that funds for internal court use are administered with the same accountability and safeguards as other public funds; and
- to protect the court against losses through negligence or misappropriation.

D. Assignment of Management Responsibility

In courts where responsibility for all financial management is centralized, it suffices for the court to make the chief administrative officer responsible for the above objectives with regard to court-collected funds. More commonly, however, financial management responsibility in courts is diffused. This requires a definition of the specific responsibilities of each court officer. In a court characterized by divided financial management responsibility, the court has a special obligation to ensure that no management responsibility goes unmet because each manager assumes that some other manager is discharging that responsibility. If this responsibility is not established by statute, the court must undertake to select a suitable system for itself.

In Virginia, for example, responsibilities for financial management in district courts are spelled out by statute. (Va Code §16.1-69.40:3, §16.1-69.33, §16.1-69.18, §16.1-69.40.)

The judge of each district court shall have management responsibility over the collection and distribution of all funds received by the court.

The clerk shall develop, implement and administer procedures necessary for the efficient operation of the clerk's office, keep the docket and accounts of the court, supervise nonjudicial personnel and discharge such other duties as may be prescribed by the judge.

Court and clerk office personnel should be familiar with the contents of the District Court Accounting Manual in order to carry out their respective responsibilities.

Similarly, the Kansas Supreme Court, by Administrative Order 30, clearly places management responsibility on administrative judges (*Kansas District Court Accounting Manual*, page 5), but leaves the delegation of the responsibility to that officer.

Each district administrative judge is responsible for the operation of the system in a particular district. The administrative judge may delegate this responsibility and related authority to the district court administrator or chief clerk.

III. CASH CONTROL PROCEDURES

A. Acceptable Forms and Amounts of Payment

A court must prescribe the forms of payment. It may state a preference for certain types of payment (typically cash, cashier's checks, and money orders), but it may monitor other types of payments as well (typically, personal checks, foreign currency, and credit cards).

Cash is a basic form of payment that is broadly acceptable, and probably most frequent, although many courts discourage cash payments by mail because the mail clerks are unequipped to handle cash receipts. Cash is the payment form most subject to loss or misappropriation, and so it is typically subject to special protective procedures: stringent receipting requirements, counting the money in front of a payor, strict limits on commingling over-the-counter cash with cash from external sources, and strict requirements on placing cash in a secure location.

Foreign currency is normally refused. However, courts in states on international borders or those with a significant influx of foreign tourists may make some accommodations. Maine courts, for example, may take Canadian currency, under some circumstances, but the deposit ticket must be validated for the value in U. S. currency, and there must be a separate deposit of the foreign currency. (*Fiscal Procedures for the Judicial Department*, §I-3 (i), Maine, AOC.)

Personal checks pose a more difficult problem, as noted in North Dakota's *County Court Accounting System Manual* at page 50:

Allowing parties to pay by personal check has been a problem in almost every court. As a product of our modern times, it's rather difficult to lay down a hard and fast rule that no personal checks will be allowed. Nevertheless, each court should use reasonable care when allowing personal checks to be written.

In general, courts cushion themselves against the risk of personal checks by:

- prohibiting their use for some purposes (e.g. cash bail);
- permitting their use by attorneys or with permission of a judge or clerk (usually *pro forma*);
- conditioning acceptance of the check on
 - proper identification of payee;
 - proper identification of payor, in particular, a case number reference and a current address;

- timely dating, not post-dating or stale-dating (both are unacceptable);
- conformity of amount being paid to amount required; and
- agreement of numerical amount on check with written amount.

Foreign checks or money orders are best refused because they generally require special deposit procedures; foreign clearings are expensive; the dollar value of the check may be less than the required amount; and processing charges may exceed the value of the checks.

The "personal check issue" is probably best summed up by the advice contained in the above referenced North Dakota manual at page 60:

A general rule of thumb when adopting a check policy is, *do not take any check where you have no recourse*. Out-of-state checks particularly fall into this category. Even many out-of-town checks are extremely difficult to recover if they are insufficient.

In many instances where you do not know the individual and he/she is writing a check on a local bank, a quick call to the bank will provide sufficient security to accept his/her check.

Current address, place of employment and telephone number (work and home) should be obtained before accepting a personal check whenever possible. *Write the receipt number on the face of the check.*

Checks should be deposited as soon as possible after receipt. A check that is good the day it is written may be insufficient two days later.

Most courts remain wary of credit cards, but it is increasingly difficult for them to ignore this common, low-risk medium of payment. Some states (e.g., Virginia and Maryland) permit courts the option of accepting credit cards. The court's account is credited quickly, with limited or no processing cost. Although there may be a small transaction charge, courts tend to assess them against the payor. However, credit cards are not, as yet, a popular option for payors, either because they do not have them or because they incur interest charges and, possibly, a transaction fee.

The incentive for payors to use credit cards may be further reduced by the widespread availability of interest-free installment plans provided by the court. Moreover, courts may find credit card use too expensive if they have to assume the normal "merchant fee"; some courts have successfully negotiated with banks to avoid transaction fees on credit cards. Probably the most popular use of credit cards is for emergency off-hour

transactions (e.g., posting bail); this may include allowing family members to call in credit card numbers to post bail for a detained relative. Acceptance of credit cards should be conditioned on a validity check.

A related form of payment is the AAA Bail Bond Service, which is acceptable to some courts and takes one of the following forms: \$500 Guaranteed Arrest Bond Certificate, a direct substitute for cash in many states; and \$5,000 Bail Bond Service that entitles a member to have bond posted up to \$5,000 by National Surety Corporation in cooperation with AAA.

Occasionally, a payor will make a multiple tender payment (e.g., part cash, part check). This is not common, but every court needs a policy on the subject. Virginia, for example, requires that "two receipts for total fine and costs must be issued in order that each tender type is properly indicated on the receipt." (*Virginia District Court Accounting Manual*, page 19.)

Occasionally, a payor will make a payment that covers a receivable amount and a non-receivable amount. The best practice is to write two receipts as there will be separate bookkeeping entries. (*Kansas District Court Accounting Manual*, page 52.)

Finally, the amount proffered must at least equal the amount required on the face of the related court papers. Courts differ on whether an underpayment will be rejected. Some courts take whatever they can get and treat it as a partial payment; other courts do not accept underpayments unless a judge so orders. If an underpayment is accepted, a receivable for the reminder is created. Overpayment may be accepted, but a refund process must start at the same time.

B. Centralization of Intake

In general, it is preferable to centralize intake physically, unless the existence of networked computerized financial systems permits central control without the necessity of physical consolidation. The deposit functions of a court should also be subject to central control. The reasons for this are clear:

- improved internal controls;
- maximized savings from labor-saving devices;
- efficiency savings from reduction of duplicate functions; and
- better cash flow.

For many courts, however, there are some practical constraints on physical centralization: (1) trial courts may be organized along divisional lines (civil, criminal, probate, etc.) with each division having its own financial office; (2) court facilities may be laid out in such a way that it would be extremely inconvenient to collect money at a central point; and (3) a court may have outlying offices that accept money as a matter of public convenience and to increase the rate of payment and reduce mail-ins.

When it is difficult to impose central intake for all courts, courts have developed a variety of alternatives to ensure accountability. Michigan, for example, in a proposed set of financial standards for district courts, suggested centralized issuance of receipts with money transferred from various collection points to the receipt issuer:

All money received should be collected at one point if possible (probation, civil, traffic, magistrate). If this is not feasible, then all money should be transferred to one responsible employee for receipting. Prenumbered receipts should be assigned to field locations and proper accountability of all assigned receipts must be done by the court including voided and unused receipts. These receipts must be provided to all individuals making payments and copies should be made to support all moneys transferred to the central District Court office. (*Draft Trial Court Financial Standards (District Courts)*, page 13, Michigan, Administrative Office of the Courts.)

South Carolina Standards merely require that the court accounting system be sufficient to control collections at outlying locations:

When there are office locations away from the main office that have cash collections, the accounting system should be sufficient to ensure that all collections at branch offices are promptly deposited and properly reported to the main office. Appropriate procedures for each situation will have to be developed, based on such factors as the number of branches, number of employees at each branch, volume of cash collected, distance from main office, type of accounting system utilized, etc. (*Recommended Minimum Acceptable Accounting Procedures for Use by Court and Judicial Offices*, page 17, South Carolina, Administrative Office of the Courts.)

Courts that process a high volume of largely uncontested petty traffic offenses often establish central violations bureaus. The main purpose of such a bureau is to handle the money from a high volume of bail forfeitures, mail payments, and walk-in payments connected with these petty offenses. Such bureaus exist on a statewide basis in Connecticut, Maine, and Rhode Island.

C. Intake Process

The initial receipt of money in a court is a vulnerable point in the system of internal control, because it is here that control is established and personal responsibility is fixed for the first time. At the start of the day's intake, a supervisor or an automated security code verifies the totals in the cash drawer, and the cashier assumes personal control of the money entering the system at his or her work station. At this point, the cashier begins to function in a framework of procedural controls. In many courts, this person is a specialized cashier. In small courts, however, one person may perform the cashier function and various related functions.

The intake process is not, on the whole, complex. It generally consists of the following steps:

- the acceptability of payment is determined;
- the payment is connected to a court case number when the payment is case-related;
- advance civil deposits, partial fine payments, or prepayments for minor offenses or escrow-type payments are subject to special treatment (e.g., some payments may involve posting on ledger cards);
- the distribution of a payment among required payment codes is determined (usually by reference to information on court papers);
- intake data is entered on a transaction log or in a cash register;
- automated or manual receipt containing key quantitative data is prepared and issued to payor, and the record of payment is recorded on court papers;
- receipt copies are distributed;
- money collected is secured in register, cash box, or drawer;
- checks are restrictively endorsed by authorized personnel to prevent the improper negotiation of the checks;
- aggregate receipts are verified periodically; and
- deposits are prepared, typically by someone other than the intake cashier, often a bookkeeper.

D. Receipt Process

The key to the intake process is the use of receipts. The normal elements of a receipt process are:

- production of consecutively prenumbered receipts containing the following data elements: (1) date of receipt; (2) county/city; (3) court; (4) receipt number; (5) case number; (6) name of person making payment; (7) name of person on whose account payment is made (usually the same as above); (8) amount paid (can be entered in cash

register and stamped on receipt); (9) type of payment (partial, full, or prepayment; check, cash, or money order);

- original receipt should go to payor as proof of payment; a copy should go to the bookkeeper for documentation; to the issuing agency as a control document; and possibly to the case record (it is possible to simply stamp case papers with receipt number);
- issuance and control of receipts from a central source with strict accountability for each receipt based on:
 - strict adherence to numerical sequence;
 - explanation of voided or omitted receipts and submitting all copies of these receipts;
 - reconciliation of receipts issued with money received; and
 - issuance of receipts to individual cashiers to fix responsibility;
- coding of receipt forms to accommodate a broad variety of receipts including a code for overpayment (alternative is to receipt separately for various types of receipts, such as escrow-type payments);
- preparation and issuance of a receipt for each over-the-counter payment (whether cash or check), possibly more than one receipt for multiple tender payments (both cash and check), or a payment covering separate offenses;
- placing receipt number on check in case the check does not clear;
- preparing a payor receipt for each payment received by mail; issuance of a receipt to payor varies, many courts doing it only if requested to do so and perhaps even then only for cash receipts;
- person receiving payments by mail should log in all payments and prepare receipt (whether issued to payor or not) but should *not* perform daily cash balancing and deposit functions;
- when money is transmitted to a cashier from a mail unit or some court-related agency (e.g., a bail commissioner, magistrate, sheriff, etc.), an aggregate receipt should be issued to this agency, which should supply a supporting list of individual payments (agencies that regularly collect money for the court should be issued blocks of receipts);
- commingling of receipts from multiple sources is normally discouraged because it undermines internal control and accountability; this applies to keeping the receipts of each cashier separate, as well as to identifying receipts from outlying points or court-related agencies separately; and

- use of "change fund" is a public convenience and reduces the incidence of error in over-the-counter transactions; such a fund should always be at a stable amount (\$50, \$100, etc.) fixed by administrative regulation and should never be used to cash checks.

E. Use of Cash Registers and Computerized Cash Drawers

Most courts with any degree of volume use cash registers, but a considerable number of courts still use manual processing. Even in courts where cash registers are used, there may be some intake points employing manual procedures. The principal differences between these processing methods are:

- the use of a machine-generated tape to verify receipts, as opposed to use of a receipt transaction register (some courts use both);
- machine-stamping of support documents, as opposed to manual stamping;
- machine storage of receipts, as opposed to use of cash drawers; and
- use of individual machine access codes and machine operator codes that facilitate identification of the person responsible for an intake transaction.

State-of-the-art technology allows for sophisticated transaction processing through the use of on-line terminal cash registers. The hardware consists essentially of a PC with a cash drawer and software that allows the PC to perform as an on-line terminal. The PCs can be networked through a central computer providing a central control unavailable in a simple cash register system. PCs have their own set of controls: (1) security codes; (2) use of diskettes, which must be protected and stored; (3) external control of cash drawer by a supervisor; and (4) the balancing of receipts against the machine-generated totals.

F. Erroneous Transactions

Machines involve some unique problems, such as "over-rings," (i.e., mistakenly entering a higher dollar amount than is called for) which must be immediately called to the attention of a supervisor. "Voids" of a receipt can be handled on the machine and should be part of the tape documentation. The machine provides a running record of transactions which can be used not only to verify receipts but as a documentation of a deposit (commonly prepared by each cashier for his or her receipts). Not all mistakes involve erroneous numerical totals. There may be mistakes on some other factual entry that is germane to the transaction. Many courts use cashier-error correction slips that must be countersigned by a supervisor and made part of the daily documentation.

G. Amount and Timing of Payment

Courts do not always collect immediately and in full the fines and costs due to them. Very often, payment is partial, or a full payment is deferred to a later date. Every variation in the amount and timing of payments involves a different procedure. The principal variations are:

- initial full payment;
- first-time partial payment (typically requiring creation of a ledger card or some account receivable record);
- subsequent partial payment (typically requiring an update of the initially established record); and
- deferred payment (typically a delayed full payment reflected as a ledger card or receivable record established on the day of judgment).

H. Method of Payment

Payors can pay the court in person by making an over-the-counter payment. For many minor offenses, payors may pay by mail. Almost every court has separate intake procedures for mail and over-the-counter payments and takes steps to prevent commingling of the two money flows.

More complex are payments made to a court official not directly involved in the official intake process, for example, money collected by a magistrate authorized to take pleas or cash bail, money paid to a probation department as a condition of probation, or money collected by a sheriff (e.g., cash bail). These third-party receipts must be funneled into the court financial process with adequate documentation. This is a significant gray area in the control processes of many courts.

I. Revenue Type

There are a number of variations in the types of nonappropriated money received by a court. The bulk of incoming money is normally in the form of fines and related costs, but even within this category the complexity and difficulty of the intake process will vary according to whether or not the defendant is making a prepayment for a minor offense or according to the type of offense (e.g., drug cases may involve special costs or a different fine distribution). Civil fees are normally fairly simple to process unless a court uses an advance deposit scheme, in which case a record of costs in relation to deposits must be set up at intake. Escrow payments (e.g., condemnation, cash bail) and pass-through payments (e.g., restitution, child support) normally require different intake procedures than fines, fees, and costs, because they are not destined for public treasuries and often involve creating or updating individual ledgers. The mix of variables will differ by jurisdiction.

J. Treatment of Aberrational Transactions--Unclaimed Funds, Non-Sufficient Funds (NSF), Uncashed and Undistributed Checks

Some checks do not flow smoothly through the system. There are certain "problem" categories that require special management concern:

- checks drawn in an improper amount (normally returned to payor);
- checks lacking a case number reference (normally requiring some inquiry to establish the cross-reference);
- checks returned because an account is closed or because of insufficient funds (normally treated by imposition of a penalty);
- court checks returned because the payee cannot be located at the address; and
- checks that remain undeposited for long periods (normally handled by a write-off).

Most courts have a policy on "bounced checks," normally imposition of a monetary penalty and an enforcement procedure. Areas not as completely covered are:

- what to do with money held for an individual who never claims it, (e.g., cash bail);
- how to prevent misuse of returned court checks;
- when and how to write off an uncashed check; and
- how to deal with persistent failure by some payor to indicate case number or correct amount (occasionally attributable to rancor in domestic relations cases).

The "misuse" issue is commonly addressed by creating suspense files for returned or undistributable checks. Such a file requires its own in-and-out log to ensure control over checks until they are returned to a payor or a new check is received to replace a deficient check.

Write-off procedures involve a "stop payment" on checks uncashed over a long period (write-offs are more commonly used for uncollectible items). Appropriate bookkeeping entries must be made to ensure that court accounts are in balance.

Unclaimed funds tend to accumulate in court bank accounts. These funds are normally derived from cash bail or other escrow-type funds. Generally, these funds escheat to the state pursuant to statute, but courts often lack procedures to make a transfer of unclaimed funds. This may benefit a court in terms of interest, but this type of accumulation invites defalcation. To prevent this possibility, some states impose time limits on the length of time unclaimed funds can be held. Maine, for example, requires that bail bond checks that are unclaimed or undeposited be treated as abandoned property

after one year and transmitted to the State Treasurer (p. I-2, *Fiscal Procedures for the Judicial Department*). The escheat procedure in Michigan requires that all money unclaimed for a period of at least two years, but no more than seven years (including undeliverable and outstanding checks), be transmitted to the Michigan Department of Treasury (Section B(4), *Proposed Trial Court Financial Standards*).

K. Security of Receipts

A policy is required on security of cash, checks, and money orders. The policy pertains to protection of cash and checks during business hours and in off-hours (normally, storage in a safe or vault). Among the points to be covered are:

- locating cashier booths in highly visible areas;
- controlling employee access to areas where cash is collected;
- controlling access to safes and vaults, including periodic changes in combinations;
- providing security when money is being transferred to a depository; and
- locking cash drawers whenever a cashier is temporarily absent from the cashier station.

A related issue is timeliness of deposits, because cash intake systems are vulnerable if money is not quickly transmitted to a depository. In fact, if the volume of money collected is high, it may be good policy to make deposits more than once a day. The United States General Accounting Office recommends that deposits should be made when collection totals reach \$1,000. In a court with low volume, it may seem more convenient to make deposits only several days a week and to do a reconciliation at the point of deposit. However, officials should carefully weigh whether such efficiency outweighs the risk. In the event that money cannot be deposited on the day it is received, it must be stored in a secure, limited-access area by someone in authority who is accountable for the receipts. The funds retrieved from storage for deposit should be verified against those entered into storage.

Deposits are a crucial point in the internal control process. Thus, the deposit function is usually separated from the receipt functions, the data entry function, and bank statement reconciliation function. The deposit, from an accounting viewpoint, serves a variety of control purposes:

- deposits are a means of verifying receipts, so that deposit slips should be supported by a list of checks and money orders (if these are not actually on the deposit slip);
- deposits should distinguish the source of money (cashier, mail, etc.) to facilitate audit;
- deposit amounts should be verified against journal entries and against bank statements; and

- redeposited funds should always be clearly designated to avoid redundancy.

L. Timely Reconciliations

Delay in reconciliation invites abuse because it clouds the issue of who is accountable for errors. There are several points of reconciliation: (1) the reconciliation of the receipts of each intake person with audit tapes and transaction logs; (2) the reconciliation of total receipts from all sources with summary of receipts; (3) the reconciliation of receipts with deposits, cash journal entries, and checkbook entries; (4) the reconciliation of bank statements with disbursement journal entries, checkbooks, and deposit records; and (5) the reconciliation of disbursement vouchers with checks issued.

M. Disbursement of Nonappropriated Funds

Disbursement here refers to internal controls over the disbursement of nonappropriated funds. Such disbursements take various forms, among them:

- full or partial refunds of fines and costs (sometimes due to overpayment);
- distribution of court-collected funds to governmental treasuries;
- alimony and support payments issued on a court check (this is the normal practice on a pay-through because it preserves an audit trail); and
- payment of escrow or registry funds under court order.

Among the management considerations in protecting the integrity of the disbursement process are:

- a requirement that all disbursements be by check, that checks be prenumbered, that the check supply be guarded, and that canceled, spoiled, or missing checks be accounted for;
- prohibition of checks to "cash";
- maintenance of a check register that is verified against checkbook stubs and bank statements;
- written authorization to sign checks approved by the top court official and filing of signature cards for reference;
- use of dual signatures, where practical, particularly for large disbursements;
- requirement that someone other than the signers periodically review the numbered sequence on checks;
- requirement that there be supporting documentation for all checks issued--such as a court order;

- requirement that facsimile signature plates be tightly controlled;
- prohibition of presigned checks;
- inclusion of case information on check stubs, particularly case number;
- reflection of disbursements in case records; and
- requirement that disbursements be made regularly and within established time frames ensuring service to individuals and cash flow benefits to governmental treasuries.

IV. CASH ACCOUNTING

Managers have a responsibility to ensure the integrity and operational adequacy of the bookkeeping system for intake and distribution of nonappropriated funds. This responsibility includes ensuring: (1) that the structure of the bookkeeping system is realistically adapted to the money flows in the court; (2) that the proper source records, books of initial entry, and books of final entry are established; (3) that the books are maintained in a timely, complete, and accurate manner and provided physical security; (4) that the distribution of nonappropriated funds is timely and accurate; and (5) that automated accounting systems or one-write systems are used.

A. Structure of Bookkeeping System/Chart of Accounts

While trial courts may not be responsible for appropriations accounting, clerks or trial court administrators are frequently responsible for keeping books of account pertaining to the various types of nonappropriated funds paid into the court--primarily fines, fees, costs, support, alimony, restitution, and various registry funds. The core of the accounting system is the chart of accounts, which provides the structure by which all accounting events or transactions are classified and recorded. For the purpose of this section, the revenue codes in the chart of accounts are of particular importance. These accounts are assigned numerical codes, which are created either by state or local executive branch agencies, or by state or local court managers. Expenditure codes are also of significance, but disbursements of nonappropriated funds are often in the form of checks to governmental treasuries or individuals, rather than in the form of vendor payments or payroll checks. Thus, the disbursement codes pertinent to nonappropriated funds are relatively limited in number.

It is a managerial responsibility to see that: (1) the charts of account are those prescribed by fiscal officials of other branches or by the state supreme court; and (2) these charts of account are organized to permit the court to discharge its accounting responsibility adequately. While the tendency is to accept charts of account as they are, it frequently occurs that the prescribed chart of accounts does not accurately reflect the unique and varied money flow in a trial court. It is a managerial responsibility to rectify this problem.

To assess the adequacy of the charts of accounts, there must be a systematic listing of every type of fine, cost, fee, or court order payment for which the court is responsible. This list should include the underlying statutes and rules, amounts to be collected, and the revenue code classification, and, if they exist, interpretive case law, attorney general opinions, or administrative regulations. Such lists must be frequently updated. Following is an example taken from Section 420.2 of the *Accounting Manual of the Supreme Court of Virginia*:

420.2 Law Library Fee

	REV. CODE	AMOUNT
Not to exceed:	219	\$4.00

42.1-70. Assessment for law library as part of costs in civil actions; contributions from bar associations. Any county, city or town may, through its governing body, assess as part of the costs, incident to each civil action filed in the courts located within its boundaries a sum not in excess of four dollars.

The imposition of such assessment shall be by ordinance of the governing body, which ordinance may provide for different sums in circuit courts and district courts, and the assessment shall be collected by the clerk of the court in which the action is filed, and remitted to the treasurer of such county, city or town and held by such treasurer subject to disbursements by the governing body for the acquisition of law books and law periodicals for the establishment, use, and maintenance of a law library which shall be open for the use of the public at hours convenient to the public.

Note: 1. Law Library Fee is not assessed against the Commonwealth or any political subdivision thereof or the federal government (42.1-70).

2. Law Library Fees are directly transmitted to the "Local Treasurer" at the end of each month (Attorney General Opinion to Auditor of Public Accounts, dated July 14, 1988). These fees will no longer be remitted on Form DC-14.

The fee in the above example is earmarked for a particular purpose and, by definition, must have a specific accounting code. However, many fines and costs are remitted to governmental general funds and can be placed in broad categories for accounting purposes. In general, the pattern of distribution determines (or should determine) the structure of a revenue code. In analyzing the adequacy of revenue codes, consideration should be given to:

- legally mandated separability of certain receipts (e.g., a fee to finance indigent defense or support payments directed to a specific individual);
- required distribution to different governmental levels--state, county, city;
- required distribution within governmental levels--to general fund, special fund, particular governmental officers (e.g., a sheriff), internal court fund;
- timing of distribution:
 - immediate pass-through;
 - periodic distribution;
 - held in escrow pending court order;
- additional income generation:
 - interest on delinquent accounts;

- interest and other income from court-held funds;
- bad check charges.

Below is a typical revenue code:

TABLE 1
SAMPLE REVENUE CODE OF ACCOUNTS

100 (State)	110	Interest on court savings/checking accounts in which state money is held.
	115	Interest on delinquent fines payable to state.
	117	Bad check charges.
	120	Fines/forfeitures payable to state general fund.
	122	Civil penalties in health and safety cases.
	124	Filing fees, other fees, or costs payable to state in civil, criminal, or traffic cases.
	126	Filing fees, other fees, or costs in appellate courts.
	130	Costs recovered by courts for specific items of expense, transcripts, expert witness fees.
	140	Advance deposits claimed as revenue.
	150	Forfeiture of unclaimed money in registry accounts.
	155	Money confiscated in drug and gambling cases.
	160	Fees paid into state indigent defense fund.
	162	Driver education fees.
	164	Victim reparation payments.
	166	Game violation fees.
200 (Local)	210	Interest on court savings/checking accounts payable to county.
	215	Interest on delinquent fines payable to county.
	220	Fines, forfeitures payable to county.
	224	Filing fees, other fees or costs payable to county in civil criminal or traffic cases.
	230	Costs recovered by county for specific services (transcripts, expert witnesses, lab tests).
	240	Advance deposits claimed as revenue by county.
	260	Law library fees.
	265	Fees paid into indigent defender fund.
	270	Prosecutor fees.
	272	Sheriff fees.
300 (Escrow)	310	Cash bail.
	320	Overpayments.
	330	Advance deposits.
	340	Condemnation awards.
	350	Fiduciary accounts.
400 (Pass-through)	410	Adult restitution.
	420	Juvenile restitution.
	430	Child support.
	440	Alimony.

The court manager accountable for the system must answer the following questions:

- Is there a legally-based list of the various nonappropriated funds for which the court is accountable?
- Is this list cross-referenced to the revenue code and does this list of revenue accounts adequately reflect the financial responsibilities of the court?
- Does the bank account structure conform to the accounting structure?

B. Accounting Records

A court manager is not normally responsible for setting up books of account, but is responsible for seeing that there are adequate accounting records. Accounting records fall into three categories:

- *source documents*--evidence of original transactions that may be externally or internally generated;
- *books of original entry*--register or journals in which accounting information is initially isolated from other details of the transaction and recorded; and
- *books of final entry*--primarily, the general ledger, supported by subsidiary ledgers as required.

The normal flow of a manual system constitutes a trail, generally as follows:

- transaction is reflected in a source document recorded in journal;
- journal totals are posted to subsidiary or general ledger;
- ledgers are reconciled; and
- statements and reports are generated from ledgers.

It is a responsibility of a court manager to ensure that: (1) the books of account required by law, rule, or administrative regulation are in existence; and (2) the books of account also meet the needs of the court, because the legal requirements may be quite minimal, particularly as to subsidiary ledgers. The following determination should be made with respect to a manual or semi-automated system:

- All external and internal source documents should be retained systematically for auditing purposes, including retention of checks, receipts, deposit slips, and vouchers;
- A cash journal should be maintained in which all receipts and deposits are recorded and referenced to a source document;
- A cash disbursement journal should record the distribution of all court-collected funds;
- A general journal should record all miscellaneous receipts (e.g., savings passbooks in lieu of cash bail, interest on court accounts, etc.);
- A general ledger should be maintained; and

- Subsidiary ledgers should be maintained in all areas where there must be records kept on individual payees, specifically: cash bail; restitution, support, and alimony; accounts receivable for unpaid or partially-paid fines, fees, and costs; and registry accounts maintained by court order.

C. Maintenance and Security of Books of Account

Books of account do not themselves guarantee timely, accurate, and complete maintenance of financial records or guarantee that only authorized persons have access to these records. It is a managerial function to ensure that:

- Access to books of account or automated accounting records is controlled;
- Personnel performing accounting functions are qualified;
- Accounting manuals are available and used;
- Money collected in various court divisions is traceable to these sources and governed by a central accounting discipline;
- Entries in books of original entry are made daily;
- Books of original entry are footed and cross-footed at the designated closeout times;
- Deposits are recorded in cash receipts journal on the day of deposit;
- Control accounts in the ledger are regularly maintained and up-to-date; and
- Required financial reports based on ledgers are regular and generated within the prescribed time period.

D. Timely and Accurate Distribution of Nonappropriated Funds

This distribution of nonappropriated funds follows certain patterns, as described in Table 2:

TABLE 2

DISTRIBUTION OF COURT-COLLECTED FUNDS BY TYPE OF PAYMENT

Type	Features	Distributee	Pattern of Distribution
Monetary sanctions, fees and costs	Fines, fees, costs are aggregated in holding accounts for transmittal to government treasuries or court officer funds. Holding accounts normally correspond to specific distributees.	State general funds, special funds; city or county general, special funds; court officer funds; internal court funds.	Ranges from daily to monthly; but is normally a quick distribution.
Escrow	Condemnation, cash bail, registry accounts.	Person named in court order or judgment.	Short term distribution according to court order.
Trust	Money paid into investment account for which court officer is trustee.	Person named as beneficiary of trust.	Long term.
Pass-through	In and out account for restitution, alimony, support.	Person named as payee in court order.	Regular periodic payments to one payee; processed through court account.

Timely distribution of nonappropriated funds is as much a management concern as disbursements for goods and contracted services. Sound cash flow management dictates that payments be made at the point payment is due, unless trade discounts provide an incentive for early payment. When nonappropriated funds are to be distributed, there are also sound management reasons for quick transmittal of funds: (1) money due for government treasuries should be deposited quickly for cash flow reasons; (2) money due to individuals may be important to their economic well being; (3) money paid from registry funds under court order should be paid promptly to uphold the court mandate. Sometimes, court managers find it advantageous to hold nonappropriated funds in court accounts, most commonly to maximize the float for the court at the expense of a governmental treasury. Generally, this is not good practice. The responsible court manager should specify a regular turnaround time for each type of distribution, hold to that time frame, and enforce it by spot checks.

Legality of fund distribution is another management concern. Distribution of nonappropriated funds is governed by statute, court rule, administrative regulations, or court order. Statutory distribution formulas are often complex and impose a considerable burden on those employees who must apply the formula. For example, fines and costs in a single criminal case must be allocated among five or more governmental funds. Generally, these allocations are made at the time a receipt is issued and then carried over to a cash

receipt journal. Court managers must (by spot check) periodically ascertain whether the distribution of court funds is accurate and conforms to law.

Distributions of registry funds or pass-through funds (e.g., child support) are governed primarily by court orders, imposing a responsibility for ensuring that payments conform to the order. Again, accuracy cannot be assumed. Regular spot checks by managers are required.

An audit trail must exist from receipt to distribution. Thus, a court officer should never endorse a pass-through check and send it on to the payee because this would not generate an audit trail to trace the payment. The check and subsequent payments should always go through a court account.

An audit problem may also exist in distribution of fines, fees, and costs that are aggregated in one account and periodically distributed in lump sum to various governmental funds. Typically, the checks to governmental treasuries are based on account totals in a cash receipts journal that should reflect a compilation of individually recorded receipt transactions. A manager is responsible for seeing that aggregate disbursements can be tracked backwards to individual source documents and related to individual cases. The audit trail should extend to case records.

Distribution of interest and unclaimed funds pose special problems for managers because they fall outside the normal pattern of distribution. Interest on registry funds normally accrues to the party for whom the fund is created, but this may not be defined in court orders or law. There may also not be clear requirements on interest distribution on accounts used for pass-through payment or distribution of funds to governmental treasuries, thus inviting misappropriation. Similar problems may apply to unclaimed funds in registry accounts which can accumulate to substantial amounts. It is therefore a management function to ensure that:

- the distribution of interest and unclaimed funds is subject to clear guidelines;
- accumulations are not permitted to occur; and
- distribution is made according to legal norms.

Refunds of distributed funds require particular oversight because they are reversals of recorded transactions. If a refund is issued in the same fiscal year as the fund distribution, an adjusting entry must be made in the cash receipts journal and an appropriate entry in the cash disbursement journal. If the refund occurs in a subsequent fiscal year, no adjusting entry can be made and an account must exist to record this transaction. Special management attention must be given to ensuring the adequacy of the refund process, especially the adequacy of supporting documentation.

E. Use of Automated Systems and One-Write Systems

Automated accounting systems pose special problems of management oversight. The level of court management responsibility may be slight if accounting is done on a mainframe not under control of the court. However, many court accounting systems are now being run on microcomputer systems so that more courts have direct control over financial applications, such as accounting for money collected by the court.

While automated systems enhance efficiency, speed, and accuracy, they also present management control problems because: (1) access to files is harder to control than in a manual system (particularly in a networked system); (2) division of responsibilities tends to be blurred; (3) the opportunity for generating a false internal source document is increased; and (4) opportunity for data manipulation is much greater.

Automated accounting systems, particularly microcomputer systems, tend to take two forms, modular and integrated. Modular systems store transactions and post them to appropriate ledgers in a separate routine. The focus of a modular system is the transaction log, which eliminates the need for various journals (although these can be generated from the log). The focus of an integrated system is usually the general ledger. Transactions are posted directly in the affected ledgers without the requirement of a separate posting routine. The integrated system, because it eliminates many traditional accounting steps, is particularly vulnerable to error at the time a transaction is posted.

A manager overseeing a computerized accounting system must address some problems unique to automated systems:

- A transaction log, rather than journals, governs the original entry process, so there is a single point of entry that determines both ledger entries and financial statements; thus, separation of functions is almost impossible and must be replaced by other controls:
 - to ensure the integrity of the software programs;
 - to schedule the running of programs;
 - to secure the output resulting from each run; and
 - to protect data files in the system.
- False source documents may be automatically generated as an automatic by-product of a bogus transaction, thus requiring that access to the system and to the transfer of data be controlled; the most common control methods are:
 - unique passwords (increasingly perceived as inadequate) and individual user ID's (in a user-friendly system, not only EDP personnel, but end users must be identified);
 - secure individual terminals or restricted access to certain terminals;

- retention cycles for transaction histories and logs created so that data tampering can be discovered;
 - tracers that ensure batched inputs can be individually identified with individuals or specific entering locations; and
 - access logs (may be too voluminous and perhaps is best done randomly for brief periods).
- Tempting opportunities for dishonest employees should be eliminated by edit routines, such as identifying duplicate checks and monitoring the authorization limits for certain transactions;
- Separation of personnel responsibilities ensures accountability, but the nature of the separation is different in a data-processing environment than in a manual environment, among the possibilities are the separation of:
 - programming from actual running of application; and
 - input controls from output controls.
- Unusual events should be monitored by such things as the use of:
 - force codes or overrides, perhaps requiring that a supervisor approve them or that they be reported;
 - reconciling entries and suspense accounts, where certain transactions are temporarily set to one side; and
 - review of rejected items.

North Dakota and Kansas prescribe one-write accounting systems to provide a very simplified form of cash accounting appropriate for small court systems. The elements and advantages of a one-write system are described on pages 1 and 2 of North Dakota's *County Court Accounting System Manual*:

One-write accounting systems are also known as pegboard accounting systems because all the transactions for the entire system are entered into one type of book, and all of the forms are printed so that they fit onto pegs in the book. This will be detailed below in Chapter II.

The principle behind this system is that all forms (receipts, pay orders/checks, ledger cards, etc.) are designed to fit into the system, and when one entry is made it is simultaneously made on the other forms as a result of a "carbonbacked" or carbonless paper from design. This system has several benefits, including:

<ul style="list-style-type: none"> • <i>Maximizes Personnel Time</i> 	<p>This is accomplished because clerical time is reduced from a multiple entry to a single entry process. The chart of accounts spreadsheet is on the same page as all other entries.</p>
<ul style="list-style-type: none"> • <i>Improves Recordkeeping</i> 	<p>The single entry process reduces or diminishes transcription errors because the single entry updates all of the records at one time. The spreadsheet is a double-check for mistakes because left-hand and right-hand columns must match. Posting is done immediately, reconciliation time is less, and balancing is faster.</p>
<ul style="list-style-type: none"> • <i>Eliminates Costly Books and Forms</i> 	<p>The primary costs to the court are for the basic system. The court will not have to purchase separate ledger books, receipts or forms which contain useless pre-printed information, wrong formats, redundant information, or unnecessary binding, colors or design.</p>
<ul style="list-style-type: none"> • <i>Facilitates Auditing Time</i> 	<p>This system was approved by the North Dakota Office of State Auditor. The system's journals provide a detailed, accurate audit trail.</p>
<ul style="list-style-type: none"> • <i>Monitors All Trust and Time Payment Accounts</i> 	<p>Ledger cards are updated at the time of the one-write entry. Accounts are maintained in an update or "tickler" file, and will identify delinquent accounts.</p>
<ul style="list-style-type: none"> • <i>Creates Standardized Receipts, Checks/Pay Orders</i> 	<p>This system will create a uniform document for all funds disbursed and received. This will benefit multi-county jurisdictions and users.</p>

V. PROTECTION AGAINST LOSS OR MISAPPROPRIATION OF FUNDS

Loss or mishandling of money usually results from the actions of dishonest or very careless employees. Internal control is based on close scrutiny of all employees engaged in money handling to prevent problems, to identify aberrational patterns, to impose warranted sanctions, and to insure the court against potential losses. There are eight areas of primary management concern: (1) separating of employee functions and employee rotation; (2) identifying problem behavior; (3) defining supervisor responsibility; (4) defining cashier responsibility; (5) being alert to common patterns of misappropriation; (6) understanding the different types of possible loss; (7) obtaining insurance against loss; and (8) imposing sanctions on employees.

A. Separating Critical Functions and Rotation of Employees

A basic management policy for internal control of money handling is the division of critical functions among employees to fix responsibility clearly and to reduce the opportunity for defalcation. The basic issue is to identify the critical functions that need to be separated, so that no employee performs more than one critical function. Most commonly, the following functions are separated: cashiering, processing of mail payments, preparing deposits, making deposits, and making entries in books of account. Reconciliations should also not be under the control of a person whose work is being checked, and the disbursement function should be separated from the disbursement approval function. A supervisor should be responsible for reconciling a cashier's collections against receipts issued and transaction logs; reconciliation of deposits and disbursements with bank statements should be done by a person not involved in deposit preparation or disbursement.

Whether a court spells out its policy depends on whether current policy statements seem adequate and whether the size of the court staff warrants a very comprehensive division of functions. As a matter of practicality, a court with a small staff may have to accept some limited overlap of functions. Separation of functions does not guarantee honesty, since collusion can defeat the strictest separation of functions. Moreover, there are inevitably some opportunities for misappropriation within single functions. Therefore, many organizations practice a policy of periodically rotating employee tasks and making unannounced substitutions. This is particularly important at the supervisory level because collusive activity often involves supervisors. Rotation permits discovery of improper activity but is probably more important as a deterrent.

B. Identifying Problem Behavior

Auditors, based on a broad range of experience, have compiled a set of common characteristics found in employees guilty of misappropriation of funds. These behavior patterns are not advanced as definitive indicators of illicit activity but simply as types of behavior to which supervisors and managers should be alert. Among these types of behaviors are:

- frequently borrowing small sums of money from other employees;
- using postdated checks or requesting personal checks to be "held";
- the return of personal checks for insufficient funds or for other reasons;
- excessive use of the telephone to "stall off" collection;
- misuse of petty cash funds;
- inclination to cover up inefficiencies or to be casual about numbers;
- frequent criticism of others to divert suspicion;
- offering unreasonable explanations to exploratory questions;
- standard of living very much out of proportion to income;
- frequent voluntary overtime, refusal to take vacations, and frequent appearance in office in off hours;
- frequent unauthorized appearance in sensitive areas of internal control;
- rewriting records under the guise of neatness; and
- strong proclivity toward gambling and drug abuse.

The above characteristics could apply to an employee at any level. Employees at the management or supervisory level, however, may exhibit other types of behavior unique to their position that indicate a possible problem:

- resistance to division of responsibilities or rotation;
- unusually defensive or protective attitude toward employees under their supervision; and
- frequent orders to employees to perform acts that are not in accord with administrative regulations.

Many instances of misappropriation by a supervisor do not surprise employees under his or her supervision. They are simply not in a position to challenge it. Consequently, a top manager has to be alert to supervisor-employee relationships.

C. Defining Supervisor Responsibility

Most courts are not large enough to have a supervisory level of employees in the financial area. Where such supervisors exist, they have an important role in protecting the integrity of the financial process against dishonest employees. This function, regardless of

who performs it, is so important that the role should be spelled out in a policy statement. Among the possible control functions to be spelled out in such a policy are:

- verifying receipts of each cashier at the close of the day;
- overseeing storage of cash in safes or vaults and generally controlling access to such vaults;
- enforcing rules on limited access to cashier areas;
- handling "overrings" on cash registers; and
- enforcing regulations on division of functional responsibilities.

D. Defining Cashier Responsibility

The person initially receiving payment is a central figure in any system of internal controls. In many instances this person is a cashier whose sole function is money intake, but there are many courts where one person performs several other functions as well as the cashier function. Although the latter category of courts tends to be in less populous areas, it is quite possible for even a highly rural state to require cashiers in every court, as illustrated in the policy of the New Hampshire Supreme Court.

Each court **must** have an individual(s) designated as cashier. All incoming mail and over-the-counter receipts must be received and immediately recorded by the cashier. Under no circumstances should incoming receipts be handled by the department clerks. There are no exceptions to this rule. (*Superior Court Standard Accounting Procedures*, p.1-1)

New Hampshire procedures go on to specify the responsibilities of a cashier:

- accepting and receiving receipts;
- maintaining custody of receipts;
- making a list of receipts in courts without a cash register;
- separating receipts for special purposes (e.g., trust, escrow) from fines, fees and costs;
- issuing receipts and accounting for voided receipts; and
- transmitting documentation, receipts and deposit slip to bookkeeper (who must always be a different person than the cashier).

In any system with cashiers there are standard controls:

- verification of receipts by checking against cash register tapes or manual transaction registers;
- explanation of voided receipts and cash refunds without proper receipt; and
- explanation of overrings.

What happens if there is a discrepancy between actual receipts and audit tapes or receipt records? Overages are not a problem, unless a refund is ordered. Often, overages are treated as unclaimed funds and handled pursuant to governing statutes or court policy. Shortages constitute a more difficult problem. A court may hold cashiers responsible for paying a shortage or take a less stringent stance. Whatever the policy is for an initial event, each instance for each responsible employee should be recorded so that a pattern can be identified. Such patterns of discrepancy should be the subject of reprimand or possibly dismissal.

E. Being Alert to Common Patterns of Loss and Misappropriation

Documenting a loss after-the-fact should not merely be through issuing an insurance report. It should be used to examine the money-handling system and strengthen its weak points. Theft patterns in courts tend to indicate that certain types of accounts are highly vulnerable. The most vulnerable accounts are those with some or all of the following characteristics: (1) accumulation of money due to unclaimed funds or accrual of interest; (2) frequent transactions; and (3) disbursements to individual payees (as contrasted to disbursements to governmental agencies). Common targets of dishonest employees are:

- cash bail accounts (including bail on appeal);
- child support and restitution accounts; and
- escrow accounts from which refunds are made (e.g., advances to cover anticipated costs).

Particularly vulnerable is accumulated interest, especially if it is not legally clear how the interest is distributed.

The ways to remove money from vulnerable funds are numerous, but the two principal means of misappropriation are lapping and kiting. The prevention of these abuses should be a central management concern. They are described below using cash bail accounts as an example:

Lapping occurs as follows: Surety A pays \$900 on account. The cashier or bookkeeper retains the \$900 and makes no entry. Minutes later, Surety B pays \$1,500. Surety A is now credited with \$900 and Surety B with \$600. The shortage remains at \$900. The theft of the \$900 from Surety A's payment is covered, and a shortage of \$900 exists in the account of Surety B. A time later, Surety C remits \$1,900 on account. Surety B is then credited with \$900, Surety C receives no credit, and the resultant shortage is \$1,900.

Kiting occurs when a check on one bank (A) is deposited in another bank (B), and the amount of the check is not shown as a deduction from the balance in Bank A at the date of transfer. This always occurs near the end of the accounting period. No book entry is made, but the check deposited in Bank B covers the cash shortage and has the effect of increasing the book balance of cash in banks at the end of the period, since the check has not cleared against Bank A. Kiting is practiced to cover the theft of cash.

F. Understanding the Different Types of Possible Loss

Court managers will on occasion have to deal with losses of court money. While such occurrences are infrequent, they are highly embarrassing and controversial. Ideally, preventive measures will make such occurrences an absolute rarity, but realistically, some losses must be anticipated. Court managers must, therefore, have an established policy that deals with each specific type of loss, provides for appropriate insurance, identifies and protects vulnerable points in the money-handling process, and deals with employees who are responsible for losses.

Loss of cash, checks, or money orders may occur because: an employee does not exercise due care; an employee acts in bad faith; or because some outside party takes the money by theft, burglary, or robbery. Each type of loss is different and must be dealt with differently because the first involves negligence; the second, in-house acts of dishonesty; and the third, an external criminal intrusion into the court.

The first type of loss is not normally covered by insurance policies against employee dishonesty or criminal acts. Moreover, it may often be rectified, as for example, when checks or money orders are lost and the payor is asked to issue another payment. Some courts require cashiers to make up cash shortages. In any event, isolated occurrences do not normally involve harsh employee sanctions and may not warrant any sanction at all. An employee may be given a reprimand or perhaps a transfer to a nonfinancial function. Clearly, repeated shortages by one employee might warrant discharge, but generally, employees would not be given repeated opportunities to err.

A different problem arises when an employee is sued for negligence in the performance of a financial function. This raises issues of liability that might be covered under liability insurance policies protecting court employees, either directly or by means of indemnification.

The second type of loss, that which results from dishonesty, raises a unique set of issues. State law may require that certain court officers be bonded personally. Most coverage, however, is provided by blanket fidelity bonds. Almost inevitably, this type of loss results in termination of employment, perhaps accompanied by a collateral civil or criminal proceeding. It is a responsibility of a court manager to ensure that:

- insurance is provided to protect the court against dishonesty of court employees;
- insurance coverage meets state legal requirements and is adequate in amount; and
- there is a policy on how to deal with employees who engage in misappropriation of funds.

The third type of loss involves criminal seizure of the court's money by persons outside the court system. If criminal activity takes the form of larceny, it may be hard to prove that a crime (rather than employee negligence or dishonesty) occurred. In any event, it is a responsibility of the court manager to ensure that fidelity bonds are supplemented by insurance policies to protect the court against crimes by outsiders.

G. Obtaining Insurance Against Loss

The main protection against loss of court funds by dishonesty is a blanket fidelity bond. Frequently, state law requires that certain court officials be covered by a surety bond. Surety bonds and fidelity bonds both involve three parties (the insured, the principal, and an insurer), but in the case of the surety bond, the principal is a specific person, whereas the principal in a blanket fidelity bond is unnamed. A court officer under a personal surety bond makes himself or herself responsible for dishonest acts of employees, so that fidelity bonds sometimes provide such a bonded official with indemnification for losses due to employee dishonesty.

A key consideration is whether a general governmental fidelity bond purchased by the executive branch applies to court employees. If the court has its own coverage, this is obviously not a problem. If, however, the fidelity bond is purchased by the executive branch of a state or local government, it is important to ascertain (before a loss) whether the definition of "employee" extends to court personnel. In a state where court cases or statutes specifically remove court employees from the executive branch control, coverage may be lacking.

The amount of protection is an important consideration. In determining a comfortable level of coverage, the administrator should be aware that while a blanket fidelity bond covers every separate occurrence of dishonesty up to the limit of the bond, collusive acts among several employees are considered to be a single occurrence. For example, if an employer with a \$100,000 blanket bond suffers embezzlement losses of \$90,000 from one employee and \$60,000 from another acting in collusion with the first, the insurance reimbursement will be \$100,000 (less deductible), not \$150,000. But, if the same two employees embezzled the same amounts without collusion, the employer would be reimbursed the full \$150,000 (less deductible).

While most fidelity losses occur over considerable time, all loss caused by one individual is considered to be a single loss. Thus, embezzlement by one employee of \$20,000 per year for eight years would be considered a single occurrence in the amount of

\$160,000. Furthermore, it is possible that the discovery of one employee's dishonesty may lead to a general investigation, unearthing collusion among many employees. Thus, it is possible that the dishonest acts of many employees over many years could, when investigated, be regarded as a single occurrence against the coverage limit of a single year. The limit of coverage is not cumulative (i.e., it does not accumulate from year to year).

It may not be within the authority of a court manager to negotiate a fidelity bond; however, it is important for a court manager to point out in writing potential inadequacies in coverage of court employees. There is some flexibility in negotiating a bond in terms of number and type of employees covered, dollar limits on recovery, and the level of risk for the insurer. A new element in risk assessment is the increasing problem of computer fraud, particularly in a network environment.

Fidelity bonds normally have strict conditions on reporting and documentation of dishonest acts. The court manager should be aware of these conditions and sensitive to the fact that burden of proof in establishing loss through employee dishonesty is upon the court.

H. Imposing Sanctions on Employees

A delicate issue is the treatment of an employee who has misappropriated funds. The courts will normally become aware of employee dishonesty through information provided by fellow employees, auditor reports, or by confession of the wrongdoer. If an employee confesses and assists in documenting the misappropriation, immediate steps can be taken to impose discipline, to seek legal advice, and to recover lost funds. Otherwise, the normal approach would be to suspend or transfer the employee, pending the result of an investigation.

Any misappropriation poses a dilemma for a court. The dishonesty, if publicized, reflects adversely on the court, and there is a natural tendency to try and settle the issue quietly by some type of negotiated departure, perhaps involving restitution. The opposite of this approach is to prefer criminal charges (and perhaps sue in tort for conversion) and to terminate employment on the express grounds of criminal activity. A number of factors influence a court's decision in choosing between these options:

- the length of service and past record of the employee;
- the amount of the misappropriation;
- the likelihood of restitution;
- the strength of the case (an over-hasty, unsubstantiated termination can make a court legally vulnerable);
- the deterrent effect of the court's decision on other employees; and
- the court's responsibility to the public for public funds.

It is impossible in matters of individual justice to prescribe rigid policy positions on what the court's position will be. However, a court should define clearly for its employees the potential consequences of misappropriation.

VI. SELECTION AND USE OF DEPOSITORIES

The proper selection and use of depositories is an important part of money handling. The principal management concerns are: (1) competitive selection of fiscal agents; (2) bank services, such as lockboxes and credit cards; (3) number and type of bank accounts; (4) signatures and signature control; and (5) protection of court deposits by insurance or collateral.

A. Competitive Selection of Fiscal Agents

Banks are important to all public agencies because they provide access to primary and secondary money markets and provide essential services which, if not provided by a bank, would have to be provided by the local jurisdiction itself. Because banks make money by earning interest on money they loan and because the amount a bank is able to loan depends directly on the amount of its deposits, banks will normally compete for public agency accounts.

Banks generally pay an interest rate on some portion of the transaction balances on deposit that is generally set a point or so below the Treasury Bill rate. However, the income from the account is offset by the fees charged for serving the account's activity, and there is usually a minimum average level of cash balances at which a given account breaks even. Because banks differ in their interest rates and charges, a court would be wise, if possible, to "shop around" and find the bank offering the best net return for the court's level of activity. Some public agencies periodically place their banking business, like any other purchase, up for competitive bidding. However, various state statutes and regulations limit the freedom of public agencies in making depository arrangements. Some require that a public agency use only banks located in the state or even in the same city, or that deposits be divided proportionately among the local banks. Others may prohibit the agency from carrying its funds in thrift institutions (savings banks and savings and loan associations). Most common are volume restrictions that limit the amounts that can be carried with any single bank. Sometimes, the limit is the amount insured by the Federal Deposit Insurance Corporation. More often, the limit is determined by a ratio of the deposit to the bank's capital accounts or to the bank's total assets. These various requirements may reduce the flexibility of the agency in achieving optimal cash management, especially as regards advantages that may be derived from economies of scale in pooling deposits.

It follows from the foregoing that courts should:

- determine the bank services it desires and the cost of such services;
- determine relevant state laws on banking services for public agencies;
- require, if possible, periodic (roughly three-year cycle) competition among banks for services;

- determine whether to use more than one depository for different types of accounts, never splitting the same type of account between two banks;
- determine whether to separate cash deposits from investment accounts and shop around for maximum service on the latter; and
- evaluate bank services periodically, comparing earnings to cost of services.

The range of services banks may provide courts in the modern era is quite broad. The basic bank services still are: (1) clearing check deposits; (2) accepting cash deposits; and (3) accounting for checks drawn against the bank account. In most instances, deposit activity in the account is quite straightforward and does not require any special arrangements. Occasionally, a bank may provide some simple collateral services such as free checks, free transportation of deposits, or even reconciliation of bank accounts with deposits and disbursements. When interest rates were high, greater managerial attention was devoted to cash management and gave rise to a variety of additional bank services, among them: (1) lockboxes; (2) credit cards; (3) electronic wire transfers; (4) direct deposits; (5) cash concentration accounts with zero balance disbursement accounts; (6) paying agents; and (7) investment services.

Payment for such services can usually be arranged in one of two ways. First, courts can pay for them directly. Most banks have developed cost accounting techniques so that they can price each service they provide. Some banks may claim that they do not know the actual costs of specific services. In such cases, court managers should at least require estimates. The court should then be able to pay for services on a monthly basis through a charge to a checking account.

Second, courts can pay for such services through the provision of "compensating balances," that is, the deposits on which the bank can earn revenue. Based upon the amount of the court's deposits and any collateral requirements that may be required by state law, the bank can determine, within a reasonable range, how much it can earn. It should be willing to share this information with the court. The costs of the services can then be related to this expected return to determine the level of compensating balances necessary for the court to purchase the desired mix of services.

Table 3 shows an example of how compensating balances are determined by relating them to the cost of the services.

TABLE 3
RELATING COMPENSATING BALANCES TO THE
COST OF BANK SERVICES

Service Charges	Quantity	Cost Per Item	Total Cost
Collection fees for warrants	1,000	\$ 0.30	\$300
Check processing	25,000	0.12	3,000
Account reconciliation	12	100.00	1,200
Safety deposit box rental	1	10.00	10
Total Cost of Service Charges			\$4,510
Data for Compensating Balance Calculation			
Annual charge for services		\$4,510	
Earning factor for bank		6.0 %	
Reserve requirement		16.5 %	
Required Compensating Balance			
\$4,510 ÷ .06= \$90,020		\$90,020 - (\$90,020 x .165) = \$75, 167	

Bank balances and service charges should be analyzed carefully. If the court's average deposits are in excess of the required offsetting balance, funds may be tied up unnecessarily. However, the problem of determining the economically optimal cash balance must be solved before it can be decided whether excess cash is being carried. It may be that a court should maintain a cash balance somewhat in excess of the offsetting amount, if this saves transaction and supervision costs.

Banks may occasionally provide services at no cost. While this seems attractive, it is usually not altruistic. Rather the bank is estimating that the indirect compensation to the bank from the court's accounts will exceed what the bank would receive on a fee basis. In short, it is managerially inefficient to choose a bank without examining the costs to the courts and specifying the services to be provided by the bank for these costs. Prudence further dictates that there should be a written contract with the bank.

B. Specialized Bank Services

1. Credit Cards

Credit cards can serve as a substitute for cash when a payor makes a payment to the court, and the transaction is processed through a bank. The use of commercial credit cards has certain advantages to the court:

- the money is credited quickly to the court's account;
- there is no loss factor due to bad checks or theft of cash by employees;

- greater convenience increases immediate payment and reduces need for subsequent court activities to recover money owed; and
- financial reporting is improved.

Federal, state, and local governments have been successful in increasing revenues by accepting credit cards for payment of fines, fees, and administrative collections (e.g., travel advance repayments).

The federal government has created a government-wide credit card network to provide very favorable terms for its agencies to accept credit cards for the collection of receipts due the federal government. This network was established in September 1987 by the Financial Management Service (FMS), a bureau of the U.S. Treasury Department. The network is composed of four merchant banks, which provide uniform nationwide credit card service to any agency: Citibank (New York), First National Bank of Louisville, Mellon Bank (Philadelphia), and Security Pacific Bank (Glendale, California).

These banks, under the terms of a master agreement with FMS, compete to provide credit card services to federal agencies. This competition creates some willingness among the banks to cut prices on equipment. FMS pays the discount rate on transactions by using the government's financial power to place an interest-free Treasury Time Balance with the network bank. The time balance is secured by collateral from the bank, and the value derived from its interest-free use is computed against the cost of the credit card services provided by the bank. The compensating balance placed with the bank is adjusted upward or downward from time to time.

Federal agencies thus pay no discount rate at all for taking a payment by credit card and are responsible only for the nominal costs of such items as imprinters and dedicated phone lines. The cost of the credit card network to FMS is more than offset through increased collections passed on to the U.S. Treasury by federal agencies. The size and desirability of the government account has kept the discount rate quite low.

State and local governments have been less aggressive in instituting such credit card networks. In a few states, the courts have instituted a statewide credit card system; the major example is Arkansas where one bank agreed at no cost to process credit card payments for all the municipal courts in the state. In some other states, credit card use by courts is permitted, typically as a local option or in specific courts (e.g., Alaska, Colorado, Hawaii, Maryland, Nevada, New Jersey, North Dakota, Ohio, Texas, and Virginia). Some characteristics common to these systems are:

- **Types of credit cards accepted:** the most commonly accepted are Master Card and VISA;
- **Merchant fee:** some courts have negotiated "no cost" arrangements, but others pay a two to three percent fee on each transaction in which fees are specified in a contract at its bank;

courts may require the cardholder to absorb the fee (e.g., Virginia), but this probably discourages card use;

- **Chargebacks:** chargebacks, whereby a credit charge is reversed to the detriment of the court, are rare;
- **Purposes for which credit cards are accepted:** credit cards are accepted for payment of fines, fees, and bail; one of the most important uses is bail, because this permits a person to avoid immediate detention;
- **Courts in which credit cards are accepted:** credit card use is generally restricted to courts of limited jurisdiction with a high volume of fine judgments and the responsibility for initial bail procedures;
- **Verification of credit balance:** some systems of telephonic verification are used. Some courts use Western Union; others have their own card imprinter and use either an 800 telephone number or an automated card verifier connected to the telephone system; and
- **Popularity of credit cards among defendants:** credit card use has been low, although it is a convenience to persons out of town or parents posting bail for youngsters detained at a distant location. Low usage is probably because cardholders have to pay interest on the charge and because courts generally provide an opportunity to pay off fines and fees in installments with no interest.

2. Lockboxes

A lockbox is a rented postal box, serviced by a commercial bank, where persons send payments due the court. The bank's service includes collecting the court's mail from the postal box, sorting, totaling, and recording the payment; processing the paperwork; making the deposit directly into the court's account with that bank; and sending remittance data (e.g., the case number of a fine payment) to the court either in hard copy or electronically. In the case of unidentified funds, copies of the check would be sent to the court for identification.

Lockboxes are a popular and widely offered cash management service. The possible advantages of a lockbox system are:

- reduction of processing time and reduction of court expenditures for processing and transporting payments to a depository;

- reduction of check-clearing time, with a consequent increase in interest and minimization of float favoring the bank;
- provision of additional internal controls by separating the processing of receipts from the management of accounts;
- automation of transactions without the court having to bear the cost of capital expenditures; and
- automated updating of court receivables, either by direct electronic transmission or by transmission of machine-readable data.

There are some possible disadvantages to having a noncourt agency receive payments:

- some payments may be hard to relate to a specific case, and others may be unidentifiable;
- some payments may come with inscriptions that raise legal issues (e.g., a check with an inscription that a fine has been paid in full); and
- some payments may be less or more than the legally required amount.

However, the principal issue is one of cost/benefit. In general, a court will not be able to justify use of a lockbox system unless its volume of dollars and items is high and relatively stable. A court must measure lockbox purchase by weighing the additional bank costs against internal cost savings and the additional income from accelerated payment or float reduction.

One state-funded court system found that it could lay off eight employees by using a lockbox. However, the lockbox charge amounted to 55 cents per check, or about \$27,000 per month. The reason for this unusually high fee was that the court's flow of mail was extremely irregular, varying from 150 to 3,000 pieces of mail daily—even 6,000 pieces after holidays. Furthermore, the court could not enjoy the benefit of added interest on deposits because by law all interest went to the state treasury. This court therefore decided that it would be cheaper to continue using its own employees to process payments.

Lockboxes may be used to limit the access of court employees to money, both cash and checks. A lockbox system provides an automatic integrity check, because it separates the collection function from the court's record-keeping function, and provides for reconciliation of the two independent totals kept at the bank and court. A court may be willing to incur a small additional expense for a lockbox system in order to achieve better internal control.

Because a lockbox system serves various purposes, it can take a variety of forms. Among the points to be considered in choosing a particular bank and preparing any Request for Proposal are:

- the type of documentation to be returned to the court either for the manual or automated updating of court records;
- procedures for handling postdated or staledated checks or any other court requirement regarding the acceptability of a check; and
- procedures for handling miscellaneous correspondence.

If a court installs a lockbox system, specific conversion planning tasks must include (but are not limited to):

- conducting an on-site visit to the selected lockbox site(s);
- preparing lockbox processing specifications that will provide the necessary information pertinent to its internal controls;
- revising the court's current internal collection regulations and accounting systems;
- assessing lockbox reporting options for updating the court's accounts receivable; and
- signing the agreement with the bank.

Once a lockbox system is operational, a court must monitor its performance because the court is responsible for the accounting requirements and for the integrity of the system. The court should monitor lockbox performance daily to ensure quality service, reconciliation of detailed remittance data, and the timely transferring of funds. The court should pursue inquiries about reconciliation of data/documents processed through the lockbox with the lockbox bank customer representative. Finally, the court should periodically review costs and benefits, because changes in bank charges, interest rates, and court operating expenditures may affect the decision to retain the lockbox.

3. Direct Deposit

Some public agencies deposit the payroll directly into the bank accounts of participating employees. The advantages of direct payroll deposit are that:

- it increases the predictability of the outflow of funds;
- it increases security because it reduces the chances for misplaced or stolen checks; and
- it creates goodwill with employees because of its convenience.

The disadvantage of direct deposit is the lost opportunity for riding the float that comes with disbursing the payroll through checks. Moreover, if a number of employees elect to stay outside the direct deposit system, the payroll operation can still be onerous. Ultimately, the main justification for direct deposit is employee convenience, rather than improved cash management.

4. Central Concentration and Zero-Balance Accounts

Many banks provide a service whereby cash balances from various court accounts can be pooled in one central concentration account, using zero-balance accounts for disbursements. A central concentration account receives all cash deposits, and all investment purchases are made from it. It may aggregate cash from a number of accounts in a single bank, or it may pool cash from accounts in different banks. Disbursements are then made from a series of specialized accounts maintained at a zero (or compensating) balance. A separate zero-balance account could be maintained for each major special purpose. The major advantage of concentration and zero-balance accounts is that they enhance cash management and internal control: a manager need only monitor one account.

5. Banks as Paying Agent

Most banks will serve, for a fee, as a paying agent to make routine disbursements from court accounts. Such a service should be cost beneficial (i.e., cheaper than internal performance of the task), legally possible, and confined to highly routine disbursements such as child support or alimony.

6. Investment Services

The range of investments permitted to public agencies by law generally does not provide a very broad or complex investment mix, and in most courts, it would not warrant a contract for investment service from a bank. The purpose of such contracts is to maximize income by ensuring that cash is converted quickly into income-producing securities or accounts and that such income is maximized within the risk constraints set by law. Typically, state law provides a narrow range of permissible investments and may, in fact, require that clerks or court administrators keep money in interest-bearing accounts or income-producing accounts. The most commonly permitted investments are also relatively easy for a court to make; they include:

- certificates of deposit (CDs);
- NOW Accounts (i.e., negotiable order of withdrawal, a species of saving accounts with check privileges);
- money market deposit accounts;
- United States Treasury Bills, notes, and bonds; and
- United States agency securities (e.g., those issued to raise capital for federal loans to farmers or for home mortgages).

Of less certain legality in many states is use of repurchase agreements (or Repos) which involves a bank reselling a short-term instrument, such as a Treasury Bill, and promising to repurchase the security at the same price with additional interest. Because Repos are normally used for short-term investment, they are not commonly used by public agencies, particularly small and financially unsophisticated public agencies.

Some state and local governments have investment funds. Courts may prefer to place court money in these funds rather than using a bank. Probably the most common form of investment is CDs, which frequently have rates competitive with Treasury Bills. Administratively, it is more feasible for court managers and clerks to invest in a local bank's CDs than to enter a bid with the Treasury Department for a T-Bill. Politically, it may also be more attractive to invest locally.

C. Number and Type of Bank Accounts

Courts very often maintain a number of bank accounts and have a very complex account structure. There should be a specific rationale for the creation of each account. The most obvious reason for opening an account is a court order requiring deposit of particular funds in a special account. State law may also dictate that certain types of receipts be placed in separate accounts. In general, however, the creation of special accounts is determined by accounting and financial factors, such as: (1) the speed of disbursements, which influences the division of funds between time and demand accounts; (2) the limits of insurance coverage, where supplemental collateral is not available; and (3) the type of distributee (e.g., individual or governmental).

Court managers should maintain current information on the following aspects of the court's bank account structure:

- a list of all accounts with information on:
 - name of depository;
 - account number;
 - type of account (time, demand);
 - balance;
 - type of securities and value;
 - interest rate;
 - insurance and collateral;
- a legal, accounting, or financial reason why each account is separate from other accounts;
- a reason why funds are in an interest-free account;
- the nature of disbursements made through each account (to government treasuries, to outside parties, for goods and services, etc.);
- the nature of funds deposited in each account;
- tax identification number in conformity with IRS regulations, where needed;
- whether the account is reflected in the financial audit of court; and
- how interest in the account is to be distributed.

In general, fines, fees, and costs destined for governmental treasuries are processed through one bank account, unless various divisions of a court have separate offices and cashier systems. These accounts are typically demand accounts because disbursements are

made quickly. Disbursements for goods and services needed by the court are not made from these accounts, which are set up to facilitate transfer of money to various governmental funds. While the pattern of distribution may be quite complex, this does not require a multiple account structure because the distribution scheme should be coded into the receipt process and the cash journal entries are then effectuated in the disbursement process.

Some fines, fees, and costs paid to the court may be designated for use by the court and therefore deposited in an internal court fund, which requires a specific bank account. Each court fund requires a separate account, usually a time account because money may accumulate in the fund until disbursement decisions are made. Disbursement is usually for goods and services but may be for such things as travel advances and conference fees.

Courts may have to open some case-specific escrow accounts, for example, in situations such as condemnation, where money is paid into a court pending a judgment on distribution of the funds. Similarly, courts may be compelled by court order or rule to set up funds for the benefit of specific individuals, for example, a trust for a minor. Typically, these are separate time accounts. Rarely are interim disbursements made from these accounts, although occasionally administrative fees are assessed; normally, the full balance in the account is disbursed all at once and the account closed. Cash bail accounts are also a special type of account. Because they tend to accumulate a balance and generate interest, they should be time accounts, but often they are demand accounts. These accounts are characterized by many transactions but no disbursements for goods and services. However, disbursements may be made periodically to governmental agencies either in form of forfeiture or deduction of fines, costs, and fees from cash bail.

Accounts may be set up for passing court-ordered payments to outside parties, typically, accounts for restitution programs and child support payments. These accounts (like cash bail accounts) are supported by subsidiary ledgers to detail individual payment records, but one bank account may suffice for all pass-through payments of a particular type. Some courts pay restitution from the general fund for fines and fees, rather than have a special restitution account. Pass-through accounts are usually demand accounts because of the immediacy of money disbursement. Essentially, these in-and-out accounts are designed to create an audit trail, although there may be an occasional disbursement of administrative fees to governmental agencies.

D. Signatures

Signatures on accounts are routinely submitted to banks and left on file. These signatures designate those persons who have access to the funds in the account and are, therefore, of great significance. Sometimes, law or rule determines the signatures on an account, but regardless of this, there are many discretionary actions that court managers can take to ensure that signatories do not misappropriate funds from an account:

- counter-signature should be required, usually of people on a peer level;
- signature cards should be kept current;
- any automated signature process or signature stamp should be strictly controlled; and
- there should be a strict separation between authority to approve disbursements and authority to sign checks.

E. Insurance and Collateral

State law generally requires that accounts of public agencies be insured. State insurance coverage, FDIC coverage, or FSLIC coverage suffices for most accounts, but if balances exceed insurance, banks may be asked to protect deposits by putting up collateral.

Insurance protection is most necessary on time accounts where balances can be large and interest can accrue in large amounts. The amount of collateral should encompass interest. Normally, banks are formally requested to provide collateral and respond by identifying the posted assets. If balances drop, the process reverses, and the bank may request a decrease in collateral.

VII. INTERNAL AND EXTERNAL AUDITS

Auditing requires accounting expertise and also, in the modern era, some knowledge of computerized financial systems. Auditing certification procedures now include a special certification for auditors with specialized knowledge of computerized systems, a fact that court managers might consider in selecting auditing firms.

It is not necessary that court managers personally have this expertise, but it is important that court managers know how to interact with auditors and to make use of audits, both internal and external. This section deals with auditing from the perspective of a court manager and emphasizes financial auditing, as contrasted with performance auditing, specifically:

- importance of audits to discharging financial management responsibility;
- management responsibility for selecting auditors and defining the scope and objectives of the audit;
- management responsibility for ensuring that auditors meet the generally accepted norms for auditing;
- management responsibility for internal auditing; and
- management responsibility for implementing auditor recommendations.

A. Importance of Audits to Financial Management

Most public agencies are subject to annual audits conducted by either governmental auditors or accounting firms retained on a contract. These audits can be viewed as nuisances, threats, or events to be passively endured, but it makes most sense for a court manager to view them affirmatively as a means of strengthening financial management. The affirmative stance is preferable for the following reasons:

- **Ascertaining conformity to legal norms.** An audit, correctly conducted, should provide a court manager with information on whether financial procedures conform to statutes, rules of court, and administrative regulations. It cannot be assumed that auditors know all the pertinent legal provisions, and, therefore, they should be briefed and given guidance. Such help is less necessary with government auditors, but it should always be provided to contract auditors.
- **Checking conformity to accounting principles and internal control procedures.** State and local public agencies, courts included, must conform to GAAP (Generally Accepted Accounting Principles) as set by GASB (Governmental Accounting Standards Board). GAO (General Accounting Office) sets standards for federal agencies. Some

state and local governments have also established specific accounting principles, as well as standards of internal control. The annual audit serves the purpose of helping managers adhere to accepted standards.

- **Confirming the validity of financial reports.** There is nothing more embarrassing than the discovery that published financial management information does not accurately reflect a court's financial activities. The discovery can be more than embarrassing if important decisions have been made on the basis of faulty data. Thus, an audit serves the important purpose of ascertaining the reliability of the financial information contained in reports.
- **Maintenance of quality and prevention of irregularity.** An audit provides a means by which financial officers can measure their adherence to standards. A court manager can use audits to motivate employees to maintain standards. In this sense, an audit can be a form of quality control. It can also detect irregularities indicating more serious problems than failure to meet certain standards. Auditors may detect such aberrations in the normal course of events, but prudent managers should request that attention be directed to high-risk areas or areas where the manager has noted incipient problems.
- **Checking on specific financial subsystems or automated procedures.** Automated accounting systems raise a series of issues that are unique. It is sound management practice to have an occasional audit specifically directed at the automated procedures. It is also prudent to have auditors focus on a particular subsystem periodically (e.g., accounts receivable).
- **Public accountability.** Courts, as public agencies, have a responsibility to make an open accounting of their financial activities. Auditor reports can serve this purpose, even if they contain criticisms. The tendency of most public agencies is to be defensive about auditor reports and to treat them privately (and in some cases, this is defensible). But it is much better public policy to demonstrate openly that the court is committed to a policy of accountability and adherence to national standards. In fact, the Single Audit Act (31 U.S.C. §7502(f)) requires that the report on single audits be made available for public inspection.

B. Management Responsibility for Selecting Outside Auditors and Defining the Scope and Objectives of the Audit

Court managers generally do not have a say in selecting auditors. There may, however, be times when a court manager is involved in selecting, for example, an auditor

of an internal court fund fed by court-collected fees. If an auditor is to be selected, the following steps should be taken:

- selection should be by competitive bid and a formal contracting process;
- the auditor should be truly independent, having no political, economic, or familial ties with the court;
- the criteria for selection should include:
 - responsiveness to the audit purposes and scope defined in the court's RFP (Request for Proposal);
 - price;
 - past experience in public agencies and courts;
 - qualifications and experience of proffered staff;
 - participation of bidder organization in external quality control review programs.

Regardless of whether court managers are involved in the choice of an auditor, they should state their views on the scope and purpose of the audit, and, if possible, have the court specifications built into the audit. An auditor should be sensitive to the management needs of the report recipient.

The scope of the audit may be restricted to finance, but conceivably, it could include performance auditing. The options are noted below.

Financial Audits: Financial audits include financial-statement and financial-related audits.

Financial-statement audits determine (1) whether the financial statements of an audited entity present fairly the financial position, results of operations, and cash flows or changes in financial position in accordance with generally accepted accounting principles; and (2) whether the entity has complied with laws and regulations for those transactions and events that may have a material effect on the financial statements.

Financial-related audits include determining (1) whether financial reports and related items, such as elements, accounts, or funds are fairly presented; (2) whether financial information is presented in accordance with established or stated criteria; and (3) whether the entity has adhered to specific financial compliance requirements.

Performance Audits: Performance audits include (1) economy and efficiency audits; and (2) program audits.

Economy and efficiency audits include determining (1) whether the entity is acquiring, protecting, and using its resources (such as personnel, property, and space) economically and efficiently; (2) the causes of

inefficiencies or uneconomical practices; and (3) whether the entity has complied with laws and regulations concerning matters of economy and efficiency.

Program audits include determining (1) the extent to which the desired results or benefits established by the legislature or other authorizing body are being achieved; (2) the effectiveness of organizations, programs, activities, or functions; and (3) whether the entity has complied with laws and regulations applicable to the program.

Court managers need not content themselves with a general financial audit. They can ask that a financial-related audit of courts address specific items of managerial concern, among them:

- segments of financial statements;
- financial information (e.g., statement of revenue and expenses, statement of cash receipts and disbursements, statement of fixed assets);
- reports and schedules on financial matters, such as expenditures for specific programs or services, budget requests, and variances between estimated and actual financial performance;
- contracts (e.g., bid proposals, contract pricing, amounts billed, amounts due on termination claims, compliance with contract terms);
- grants;
- internal control systems and structure governing accounting, financial reporting, and transaction processing;
- computer-based systems;
- financial systems (e.g., payroll systems); and
- fraud.

In summary, court managers should not be passive participants in the audit process. They should be involved in determining the purposes and scope of the audit, so that the end product has maximum utility for the court.

C. Management Responsibility for Seeing that Auditors Meet Generally Accepted Auditing Principles

Managers must hold auditors accountable for meeting professional standards. The exact standards to be followed should be specified prior to the audit. The main sources of auditing principles are contained in:

- **GAAS** (Generally Accepted Auditing Standards). These standards are contained in the *Statements on Auditing Standards* of the American Institute of Certified Public Accountants (AICPA);

- **GAGAS** (Generally Accepted Government Auditing Standards). The audit standards are set forth in the *Government Auditing Standards (Standards for Audits of Governmental Organizations, Programs, Activities, and Functions)* issued by the Comptroller General of the United States;
- **Single Audit Act of 1984** (31 U.S.C. §§7501-7507) and OMB Circular A-128, "Audits of State and Local Governments." The Act and Circular establish audit requirements for state and local governments that receive federal financial assistance. The Act and Circular require that audits of these entities follow the government auditing standards set by the Comptroller of the United States (GAGAS), as well as the additional standards set by the Act and Circular.

It is important that court managers know these audit standards, because they are routinely built into contracts with auditors but can't be monitored unless court managers are familiar with the standards.

D. Management Responsibility for Internal Auditing

In any court with a sizable money flow, external audits should be supplemented by a process of internal audits. Court managers must decide (if it has not been decided for them) who exercises this responsibility and if the exercise is a full-time job. Court managers must also decide (if it has not been decided for them) the scope and purposes of the internal auditing system.

The internal audit function in a large court may warrant the creation of an office of internal auditor. In most courts, the internal audit function will not be institutionalized and may be exercised in various ways, for example:

- the court manager may randomly check various aspects of the internal control and accounting systems;
- a court employee may be designated to play the role of internal auditor periodically; and
- employees of the state court administrative office may perform an audit function in trial courts, which is quasi-internal because responsibility remains within the judicial branch.

In any event, the person conducting the internal audit should not have operational responsibilities for the area being audited and should follow some structured approach.

The purposes and scope of internal audits are obviously influenced by the available resources, but in general, internal audits serve the following purposes:

TABLE 4
INTERNAL AUDIT OBJECTIVES

Purpose	Focus	Means
Investigative	Checking areas vulnerable to misappropriation (e.g., cash pass-through accounts, etc.) serves as deterrent.	Random spot checks of bail, cash balances, and account activities.
Procedural	Ascertaining adherence to internal control and accounting standards. Prevents laxity in maintaining standards.	Observation, spot check, use of checklist surveys, exception reporting.
Training	Orientation of employees in applicable laws and procedures; training of employees. Aimed at seeing that employees are fully cognizant of and equipped to meet standards.	Preparation of manuals; new employee training; review of procedures with employees in areas where weaknesses are detected.
Reporting Problems to Management	Focus is on alerting management to problems, suggesting policies and procedures.	Memoranda, regular oral or written reports.

E. Management Responsibility for Implementing Auditor Recommendations

An audit, whether internal or external, normally results in a set of findings and recommendations to improve financial procedures. The audited agency is given an opportunity to respond; this may result in the auditor changing the findings or recommendations. A written agency response is a normal inclusion in the auditor's final report; the response may outline the agency's proposed remedial action or, in the case of differences of opinion with the auditor, may set forth the reasons why the agency feels that the auditor's findings and recommendations are incorrect.

The key to this communication between the auditor and the audited agency is the management attitude of the agency. The agency attitude may be defensive and resistant; on the other hand, the attitude may be open and affirmative. The latter posture is correct because openness to constructive criticism contributes to maintenance of high standards and reduces the likelihood of major wrongdoing. An affirmative attitude should be more than a public acceptance of an auditor's recommendations. The attitude should be reflected in:

- an explicit policy commitment to implement recommendations;
- issuance of management directives to implement specific recommendations;
- existence of a follow-up procedure to ensure that implementation occurs; and
- a subsequent auditor report that provides proof positive that the alleged weaknesses no longer exist.

VIII. *MANAGEMENT RESPONSIBILITY FOR CONTROLLING THE PAYMENT OF FINES, FEES, AND COSTS*

Fines, fees, and costs constitute the greatest money flow in most courts. This particular flow raises a lot of management problems, some of them transcending the issue of controls but all of them at least tangentially related to the responsibility of court managers for ensuring the integrity of court financial procedures. The major problem arises from the fact that monetary sanctions imposed by courts do not necessarily result in immediate payment of the judgment. Increasingly, defendants are given the option of delaying payment or performing community service, alternatives that impose a number of management burdens on courts. Courts have not only a responsibility for money they actually receive but must establish control over money due to the court.

Among the areas of principal management responsibility in this area are:

- accountability for collecting delinquent payments;
- identification of and accounting for unpaid accounts;
- collection and enforcement alternatives for money due to government;
- fine alternatives and fine administration; and
- organizational changes to improve financial management

The issues relating to management responsibility for collection of fines, fees, and costs are difficult to discuss in generic terms because courts must deal with many diverse collection situations. It is, therefore, important to define collection "problems" prior to discussing management responsibilities. For the purposes of this subsection, the collection "problem" pertains to unpaid funds in the categories listed below.

TABLE 5

PAYMENT SITUATIONS THAT CAUSE MANAGEMENT PROBLEMS

Type of Payment	Special Characteristics	Management Controls
Deferred Payment	This situation arises when a defendant cannot pay a fine or costs and is permitted to make payments in lump sum prior to a prescribed date. Some courts may also defer judgment to the prescribed date. A receivable is created.	There should be an individual record, often a ledger card within an accounts receivable system. The account passes into delinquent status when payment is not received by the assigned date. A grace period is often allowed prior to enforcement.
Installment Payment	This situation is analogous to deferred payments, except that the defendant makes installment payments upon or prior to prescribed dates. A receivable is created when this type of payment is allowed.	The accounts receivable status is analogous to that for deferred payments, but delinquency may only involve the partial sum due, unless the whole balance becomes payable upon delinquency for one payment.
Judgment in absentia	Courts may be permitted to impose fines in absentia for offenses or minor misdemeanors when the defendant fails to appear. This occurs if the fine is not prepaid, if the fine is the sole sanction, and if there is no forfeiture of bail. If fines are imposed in absentia, the defendant is given a period in which to pay the fine (license suspension may be a possibility if this notice is ignored).	Technically, a receivable is created when the order to pay issues, but practically, it may be prudent to await the response of the defendant, who might conceivably claim indigence or ask for a deferred or installment payment. If there is no response, a delinquent receivable is created. A grace period may be allowed before initiating proceedings.

A. Management Accountability for Collections

Collection of money due courts has been hindered by a lack of accountability. The General Accounting Office, in a report on fine collection in federal courts, pointed out the management weakness inherent in shared responsibility for fine collection among the U.S. Attorney Office, District Court Clerks, and probation offices. The Criminal Fine Enforcement Act of 1984 (18 U.S.C. §3612) placed the responsibility for collecting unpaid fines on the United States Department of Justice.

The same accountability problems exist in state courts. A study of collection of fines, fees, and costs in Virginia courts by the Virginia Department of Planning and Budget resulted in the following comment on accountability:

Accountability. Perhaps the most critical issue is the absence of accountability in relation to the diffusion of responsibilities. Each participant in the process (i.e., judge, clerk, Commonwealth's attorney, probation or parole officer) is responsible for a part of the effort, but not the entire process; each participant has other duties which demand his/her primary attention. While appreciative of the overall importance of collection and enforcement, each party feels that such activities are of secondary importance to his/her own job.

In Virginia, prosecutors have been given primary responsibility for collection of delinquent fines and costs due to courts. These laws do not affect the underlying responsibilities of court agencies to document, account for, and collect receivables. In fact, court agencies are requested to supply prosecutors with lists of delinquent accounts. Both the Virginia and federal statutes specify the responsibility of each public agency involved in the collection process and lend more clarity to areas where there was formerly some functional ambiguity.

A court manager should ascertain the role of the court in collection of receivables and, if necessary, clarify it. A court manager should define the court's role in relation to other agencies. Table 6 illustrates the diversity of roles.

TABLE 6

AGENCIES THAT MAY BE INVOLVED IN COLLECTION PROCESS

Government Level	Agency	Nature of Possible Involvement
State	Motor Vehicle	License suspension for nonpayment
	Tax	Intercepts of refunds
	Attorney General	Guidelines, supervision of prosecutorial enforcement
	State Administrative Office of Courts	Guidelines, manuals, technical assistance on collections for court agencies. May maintain accounts receivable system in state-financed system
	Welfare	Administration of child support collections
	Comptroller	Prescription of financial records, accounting procedures
State/Local	Probation/Parole	Enforcement of restitution and fine provisions in sentences
Local	Court Managers	Maintain basic records, accounts receivable, and financial intake
	Prosecutor	Handle proceedings to enforce payment of overdue or delinquent accounts

A court manager may also have to deal with private organizations or attorneys hired to collect overdue accounts. A court manager should also know the functional responsibilities in the collection process in order to define court responsibilities and to protect against gaps or overlap. Among the functions to be analyzed are:

- money intake;
- maintenance of accounts receivable;
- generation of reports on the financial status of the accounts receivable system;
- reporting of delinquent accounts;
- oral or written notices to delinquents;
- preparation of court process to be served on delinquents;
- service of process on delinquents;
- show cause or other court proceedings, such as lien enforcement;

- license suspension (court role, DMV role);
- write-off of uncollectible accounts;
- management of private collection contractors;
- restitution enforcement; and
- child support, alimony enforcement.

B. Identifying and Accounting for Accounts Receivable

1. Definition of Terms

Increasingly, trial courts are developing accounts receivable systems to facilitate the collection of unpaid fines, fees, and costs assessed by courts. These accounts receivable systems do not in most cases conform to the technical definition of what constitutes an "account receivable," which is defined as "an asset account reflecting amounts due from private individuals and organizations for goods and services furnished by a government" ² Certain types of court revenues are fairly easy to set up as assets, for example, liens entered against a defendant for services provided at government expense. There are, however, some complicating factors when defendants are permitted to pay fines and costs at some future time, either in one payment or in a series of payments. For a variety of reasons these unpaid judgments do not fit neatly into government fund accounting:

- Given the penal nature of fines and even civil penalties, it is hard to describe the assessment of a fine as a "service," within the meaning of the above definition.
- Some fine assessments may be made in absentia which raises significant problems of categorization as defendants may subsequently appear and effect some changes in the judgment.
- Deferred or installment payments of fines may be made a condition of probation, distinguishing the case from other fines as to enforcement.
- Fines may be added to a jail or prison sentence, inevitably affecting the likelihood and cycle of collection, because jailed defendants often do not pay fines.
- Many fines and costs may accrue in part to two or more governments, making it difficult to ascertain which government has the asset or the revenue. Sometimes, a clearinghouse fund is used: (1) to allocate each payment among various liability accounts representing the various government funds that share in the payment; and (2) to disburse these

² *Governmental Accounting, Auditing and Financial Reporting* (GAAFR) (Chicago, IL: Government Finance Officers Association (GFOA), 1988), p. 151.

funds periodically to the appropriate government treasuries. However, this type of accounting is of limited use for the allocation of unpaid amounts.

- The cash basis of accounting is still used in some courts, making it difficult to claim uncollected revenue, much less to set up an asset.

Further complicating the picture are the following:

- There have not always been clear distinctions between current and overdue accounts, an important distinction for accounting purposes.
- There have not been clear distinctions between noncriminal traffic cases and criminal cases, although the rates of collection for the former are very much higher due to better sanctions for nonpayment (e.g., license suspension).
- Indigent defendants may be given the option of community service, which may be quantified on an hourly dollar basis but is not really a collectible. They may also be given the choice of time (days or dollars), which is constitutional so long as the days are not automatic if the defendant has no "immediate" dollars.
- There has been very limited use of methods to identify uncollectible accounts and to make accounting entries that adjust the amounts of outstanding fines downward (this has nothing to do with the life of the judgment itself); thus, the amount of outstanding fines may be unrealistically inflated.

Despite these technical problems there are compelling arguments for establishing an asset account called "accounts receivable" or "fines due" and a matching revenue account called "revenue from fines and fees" or something similar. The first reason is that there is a valid claim for payment of a fine and some likelihood of collection. Generally Accepted Accounting Principles (GAAP) guidelines would support setting up the accounts referred to above. The second reason for setting up these accounts is that the alternative is to dispense with formal bookkeeping related to the general ledger, making it difficult to manage the distribution of collected fines, the procedures for follow-up, and the analysis of aging accounts. The third reason is that many of the technical problems could be overcome by establishing a general reserve (like a bad debt reserve) against the asset account. This can be estimated periodically and can take into account the limitation of revenue recognition described above.

2. Elements in an Accounts Receivable System for Courts

It is incumbent on court managers to (1) identify and account for cases in which money is due the court as the result of orders or judgments; and (2) identify delinquent accounts for purposes of collection actions or write-off procedures. To meet these objectives there must be a system that tracks all unpaid accounts, whether current or delinquent. This system should have the following characteristics:

- **Ability to identify receivables.** A receivable is created when a judge, or a clerk acting under delegation from a judge, permits an assessed fine and costs to be paid by a deferred one-time payment or by installment payments. A receivable may also be created by the assessment of a fine in absentia, although some grace period may be allowed before the payor is considered delinquent. The case records should reflect these variations in payment status, as should some underlying accounting record, usually a payment plan signed by a defendant. The latter record, accompanied by a court order, should provide the basis for the accounts receivable system.
- **Inclusion of the receivables in an accounting system.** The equivalent of a subsidiary ledger should be created to record and track the amount of money owed by each individual defendant for each type of fine or fee. This ledger should contain the various revenue accounts into which fines, costs, and interest are distributed for disbursement to governmental treasuries and should be supported by individual account records. The information system should reflect the following:
 - case number;
 - case type, specific offense;
 - defendant name and location;
 - numerical identifier of defendant (date of birth, social security number);
 - the amount of the judgment broken out by distributee (normally, there are multiple distributees because of costs or surcharges added to the basic fine or penalty);
 - the prescribed payoff date or dates;
 - dates and amounts of payments;
 - allocation of payment by distributee;
 - interest computation on delinquent accounts and allocation of interest to delinquent accounts;
 - balance due (whole balance may be due if one installment is missed);
 - account status (e.g., current, delinquent, closed by satisfaction of judgment, written off);

- enforcement actions taken (license suspension, warrant, referral to contractor, etc.) and dates;
 - contractor fees taken from proceeds of collection.
- **Linkage to court records.** Docketing systems should reflect payment information; ideally, automation should create an accounting record directly from the case record when a receivable is created by court or clerical action.
 - **Notification.** Letters or phone contact with a person just before the due date of payment serves to reduce the incidence of delinquency.
 - **Timely entry of payment information.** The system is keyed to dates and deadlines and must be timely to avoid (1) injustice to defendants who have paid but have not been credited for payment; (2) breakdown in the collection process; and (3) transmission of misleading information to managers and elected officials.
 - **Ability to identify delinquent accounts and to initiate enforcement.** Accounts receivable systems have an enforcement feature that may take the form of reference to a prosecutor or contractor, reporting to credit agencies, tax intercepts, garnishments, warrant issuance, or employment of the dunning techniques used by commercial organizations. However, the initiation of the enforcement process depends on the ability to identify delinquency. The system should indicate those people who are on the verge of delinquency and those who have passed a payment date. Usually, after a grace period or some final written communication (normally automated), the system reflects delinquency status and triggers the enforcement process.
 - **Linkage to probation.** A frequent weak point in capturing payment and delinquency information is the probation process. When payment of a fine is made a condition of probation, there has to be an information link between the probation office (which in some jurisdictions actually receives the payment) and the court's or clerk's financial office, since failure to pay may result in a sentence violation proceeding. If a defendant is subject to such a proceeding, it may obviate the need for other enforcement methods and change the manner for dealing with delinquent probationers.
 - **Linkage to contractors.** If contractors are used for collection, the information system must reflect referrals and the contractor's disposition of the case, normally a successful collection or a report that the money is uncollectible. If the contractor is paid from the collected money, the system must record the withholding and the documentation

underlying the withholding. Often, a surcharge is added to the amount due and used to pay the contractor.

- **Incarceration, highly punitive fines.** On occasion, fines are imposed in addition to a prison sentence; sometimes these fines or fine surcharges are punitive in amount, a sanction now widely permitted in cases involving drug trafficking. The collection rate for these fines is quite low, but because they may involve substantial amounts of money, they tend to inflate the amount of uncollected fines. Ideally, the information system should indicate the custodial status of the payor, so that these accounts can be separately analyzed.
- **Community service.** A complicating factor in fine administration is the use of community service. This entails some approximation of the value of services and a method of reporting hours of service in order to satisfy the fine amount. Community service is analogous in some ways to an installment payment, but it is not a receivable in the sense that a straight fine payment is. An information system must include a mechanism for monitoring community service without confusing it with the monetary records on uncollected fines.
- **Write-off/satisfaction.** The system should include a write-off procedure when collection efforts fail. This prevents an accumulation of uncollectible accounts which distorts the information on revenues. In addition, the system should contain, at least for the reporting period, the payors who have satisfied their judgments. This will in turn provide a list of cases to be taken out of active status. It should be noted that a write-off is an accounting device and does not affect the validity of outstanding judgments. They remain in force.
- **Cost-benefit.** The system should lend itself to cost-benefit analysis, so that the cost of enforcement action does not generally exceed the amount of the fine to be collected. In other words, warrant issuance may lead to a series of expenses that exceed the fine to be collected. However, there is evidence that the use of warrants increases public awareness that there is an enforcement mechanism and produces an indirect benefit in the form of increased compliance. In any event, there must be some awareness among court officials that certain types of enforcement may be expensive in relation to the benefits received and that more costly devices, such as warrant issuance, are best used after less costly methods have failed.
- **Management reports.** The system should be able to generate reports that not only provide support to enforcement but also accurately reveal

the potential for collection, the success of collection efforts, and the incidence of deferred and installment payments within the system.

C. Alternative Means of Collecting Fines, Fees, and Costs Imposed by Courts

Collection alternatives fall into two major categories: notification systems and coercive systems. These categories are usually not mutually exclusive since notification systems may include some threat of future sanctions or coercive systems may rely to some extent on notification. In general, however, notification systems rely primarily on private sector models of frequent contact with delinquent payors, whereas coercive systems rely heavily on early resort to civil, criminal, or administrative sanctions.

Coercion takes various forms: (1) obtaining a civil judgment and initiating garnishment or lien proceedings; (2) using administrative sanctions such as license suspension in connection with traffic fines; or (3) using criminal contempt or sentence violation procedures to imprison a delinquent payor or perhaps to increase the fine.

Traditionally, courts have relied on coercive techniques, but such methods have not always proved effective, for reasons noted below:

- use of arrest warrants, capiases, or summonses imposes a great economic burden on process-serving agencies;
- process-serving agencies frequently give low priority to enforcing misdemeanor judgments;
- use of jail sanctions for nonpayment is constitutionally limited, the United States Supreme Court having held that: (1) an offender unable to pay his fine may not be imprisoned for a term beyond the maximum specified in the statute governing his substantive offense, *Williams v. United States*, 399 U.S. 235 (1970); (2) a person unable to pay a fine may not be imprisoned at all if the offense is punishable only by fine, *Tate v. Short*, 401 U.S. 395 (1971). Moreover a person must be given time to pay; imprisonment cannot be forthwith.
- use of coercive measures against certain types of delinquents is largely nonproductive, for example, chronic inebriates (notification is also ineffective, raising a question of whether fines serve a purpose when applied to defendants who live in a state of rootless disorder);
- use of jail sanctions for nonpayment undercuts the whole purpose of having nonjail penal sanctions;

- use of jail sanctions drains jail resources and contributes to jail overcrowding;
- making fine payment a condition of probation seems to be a way of involving probation departments in the collection process but may have negative consequences:
 - probation sentences may be used primarily for administrative reasons of fine collection;
 - studies reveal that such judgments are sometimes vague on the existence of a condition and create confusion among probation officers;
 - nonpayment of a fine may be viewed as a technical violation and not given high importance; and
 - probation sentences may be used primarily for administrative reasons of fine collection, thus causing resentment in probation offices over "misuse" of probation sentences and the additional work it entails; and
- use of coercive techniques involves costs that sometimes exceed the amount to be collected, a fact which is disguised by government accounting and budgetary practices and the diffusion of responsibility for enforcement.

Ultimately, court managers must address the high costs of a coercive approach and seek alternatives in which coercion is a last resort. The most common alternative is a notification system, which may include some coercive features but relies essentially on:

- early notices, which facilitate early payment;
- timely notice of delinquency;
- some follow-up notices, which may involve some threat of coercive action or actual phone contact; and
- perhaps, as a last resort, some coercive action.

A notification system is based on the premise that timely and persistent contact with delinquent payors will produce a higher level of payment at less cost than a system that depends primarily on coercion. A corollary of this premise is that prepayment should be facilitated by early and clear notices of how to go about prepayment. There is mounting evidence that notification systems are more cost-beneficial and effective than largely coercive systems.

Coercive systems are necessarily in-house systems, but notification systems can be turned over to contractors. Snohomish County, Washington, experimented with several methods of collection and found that the most cost-beneficial collection method was use of a collection agency that used both phone and mail contact and charged a percentage of the money it collected. The second most effective system was use of a billing service that

used a tested five-letter sequence and charged a flat rate per case. The least effective system was an in-house notification system.

In determining whether to use a contractor, the following factors should be weighed:

- **State Law.** Does state law permit the use of a contractor?
- **Ethics.** Is there an ethical problem if a court is called upon to hear a dispute between its own collection agent and a payor? Does the answer to this question change if the collection agent is an attorney who regularly appears in court (Virginia law explicitly permits use of attorneys)?
- **Perception of Court Dignity.** Is there an aversion to court use of commercial collection agents or, conversely, is there a feeling that this delegation relieves the court of a function in which it shouldn't be involved?
- **Governmental Practices in Jurisdiction.** Do executive branch agencies use collection agencies? Is there a general governmental receptivity to new ways to make revenue collection more successful?
- **Computer Capability.** Does the court have the computer capability to operate a notification system? If not, what resources and time would be required to develop the capability?
- **Extent of Contractor Responsibility.** Does the contractor assume almost total responsibility, or are court personnel still required to perform a number of functions?
- **Coercive Credibility.** Does the court sacrifice too much in the way of coercive credibility by using a contractor, or as a practical matter, is the coercive arsenal of the court illusory? (In general, contractor systems lack strong coercive features.)
- **Cost-Benefit.** Is the use of a contractor cost-beneficial or should the court set up an in-house notification system? The answer varies according to the point at which a contractor enters the process. A contractor may enter at the front end or may only handle hard cases. In either situation a cost-benefit comparison can be made between in-house and contractor collection costs.

TABLE 7

RATIO OF COLLECTION COSTS TO REVENUES

IN HOUSE	CONTRACTOR
Costs: EDP (startup, operational) Additional staff Bulk mail Supplies Backup personnel for coercive action	Costs: Cost to court for contractor liaison and support Contractor charges (usually a percentage of collections or flat charge per case).
Revenues Based on Past Rates Collection rate (actual collections in relation to potential collections) Gross collections	Revenues Based on Contractor Record Collection rate Gross collections
In- house Ratio of Costs to Revenues	Ratio of Contractor Costs to Revenues

If a contractor is to be chosen, the following factors should be considered:

- **Definition of Collection Procedures.** The collection procedures should be specified:
 - the number, timing, color coding, and contents of notices;
 - use of phone contact (direct or tape recorded).
- **Powers of Contractor.** Certain aspects of contractor authority should be specified:
 - power to negotiate payments (usually not permitted);
 - computation of interest according to tables provided by courts;
 - contractor access to court records or authority to hold such records;
 - whether all money flows through the contractor or whether court can accept payment; and
 - authority of contractor to invoke coercive authority of court.
- **Court Responsibility.** The court should specify what it will provide the contractor, such as list of delinquent payors or validated addresses of payors (address problems can be a major drawback).
- **Contracting Agency.** State law may specify the contracting agency, which may be a prosecutorial agency or a county executive agency tax collection agency. Otherwise, a choice must be made.

- **Contract Terms.** Generally, contracts will not be long term, roughly one year. Renewal on good performance can be a provision of the agreement.
- **Remittance of Collections.** A key issue is how long contractors can hold receipts. A month would be an absolute maximum. A corollary issue is the type of documentation that should accompany a remittance of collections to the court to ensure that case, person, and dollar amount are accurately linked.
- **Timeliness of Reporting Payments.** A payment clears a person's record and may end a license suspension. Steps must be taken to avoid delay in reflecting payment in case records.
- **Method of Payment to Contractor.** Payment could be in the form of a set amount, a flat charge per case handled, or a percentage of collections.
- **Reporting Requirements.** A contractor should make specified financial and statistical reports, including data on which aspect of the collection process seems to be the most effective. Reports could be directed to the contracting agency or to any governmental agency specified in the contract.
- **Liability Issues.** A court might be liable for the actions of its collection agent. Thus, a court might choose to be held blameless by requiring its agent to assume full legal responsibility for collection activities.
- **Collateral Coercion.** Coercive action may precede reference to a contractor (for example, license suspension). The question arises as to how reference of a case to a contractor affects coercive measures by the court.
- **Uncollectibles.** At some point, contractors must give up and declare that a particular sum is uncollectible. This point must be specified, as must the procedures for returning such cases to the court. The actions taken by the contractor should be documented if the court is to constitutionally impose imprisonment as a sanction.

D. Fine Alternatives and Fine Administration

The collection of fines, costs, and fees is a complex area that requires special management. As yet, few courts even view fine administration as a necessity, but court

managers cannot long avoid dealing with the need. The components of fine administration are:

- **Obtaining and Maintaining a Detailed Overview of the Fine, Fee, and Cost System.** A court manager should have a working knowledge (or ready access to knowledge) of the laws governing fines, costs, and fees, usually in the form of an indexed compilation.
- **Reduction of Unnecessary Complexity.** Fine, fee, and cost schedules evolve over time in response to various pressures, often more fiscal than penal. These schedules may not be internally coherent, and they are often quite complex in application. Complexity renders fine administration difficult, and if such complexity serves no real purpose, court managers should take an initiative in clarification, perhaps even legislative initiatives.
- **Fees and Costs.** Statutes, ordinances, and court rules often impose numerous fees and costs, particularly in connection with traffic cases and minor criminal infractions. Sometimes, costs exceed a fine; sometimes, civil fees reach the point where access to justice is threatened. Fine management requires that court managers:
 - ensure that fees and costs are accurately computed and then collected;
 - document the effect of high fees and costs (e.g., increase in installment payments, increase in pauperis proceedings; increase in delinquency); and
 - be prepared to document need for revision in cost and fee structure.
- **Prepayment Options.** Successful fine administration requires maximization of prepayment of fines for minor infractions. This goal is achieved by: (1) expanding the number of fines that can be prepaid; (2) ensuring that the fine and cost structure is simple and clear; and (3) communicating in simple and clear form the prepayment option.
- **Creation and Enforcement of Payment Plans (Installment and Deferred Payments).** Fine administration requires that court managers construct payment plans for those defendants who may not be indigent but cannot pay the fines and costs immediately. These plans should:
 - be sufficiently structured so that forms can be designed;
 - be realistic and not overly lenient and drawn out over time;
 - be signed immediately by the defendant before he or she leaves the courthouse (a copy should be given to the defendant);
 - include provision for an immediate initial payment, if possible;

- be very specific as to dates of payment and enforcement procedure;
and
 - be enforced quickly if a delinquency occurs (this assumes a receivables system).
- **Convenience in Time and Location of Payment.** Permitting payment at a number of locations or in off hours increases payments but must be weighed against control problems resulting from spreading out the payment process.
 - **Alternative Means of Payment.** The key to fine administration is to obtain payment immediately in the great majority of cases. This goal is defeated if the court is unduly restrictive in the type of payment it accepts. The rate of collection improves if credit cards and personal checks are accepted. There are, of course, some practical reasons for limiting these means of payment.
 - **Alternatives to Fines for Indigents.** Legal and practical constraints on fining indigents require that courts have some alternative sanctions when an offense does not warrant incarceration. The major option is community service. Provision of this option requires an administrative effort since:
 - ability to pay must be verified;
 - community service programs must be identified and their operators persuaded to participate;
 - the hours of service must be translated into dollars equivalent to the amount of the fine; and
 - the actual performance of the community service must be verified and recorded.
 - **Job Banks.** Roughly analogous to community service is the use of job banks (used in New Jersey), which provide jobs to defendants so that they can pay their fine.
 - **Day Fines and the Ability to Pay.** If fines are viewed strictly as penal sanctions, it is obvious that a fine against a rich person is less painful than the same fine assessed against a poor person. The Vera Institute has been advocating a European "day-fine" system, which takes into consideration the ability to pay (determined roughly as pretrial service units in the United States ascertain indigence or domestic relations courts set child support payments). The term "day fine" is derived from the practice of computing the daily value of a person's work and translating this into a fine by multiplying it by a number of units assigned to a particular offense according to its severity. American law

is not yet attuned to this concept, but pilot projects in Staten Island, New York; Phoenix, Arizona; Des Moines, Iowa; and in the states of Oregon and Connecticut are testing the concept.

- **Timely Administrative Response to Court Orders.** Fine administration often suffers from lack of "follow through." Sometimes, this is beyond the power of court managers (e.g., failure of a non-court agency to serve process), but sometimes court managers fail to execute a court judgment quickly, for example, notifying the Department of Motor Vehicles that a license has been suspended.
- **Interest and Its Collection.** The imposition of interest on delinquent fines is a normal penalty. Interest starts to run at some designated point after a payment due date. Often, failure to make one installment payment may mean that the whole amount becomes due, so that interest accrues on the whole amount. Computation of interest, however, requires administrative attention to detail. Auditors find that courts sometimes neglect to either compute or collect interest.
- **Monitoring Judgments and Provision of Feedback.** Judges do not always render judgments clearly or correctly, which is not surprising in a high volume court with a complex set of fines, costs, and fees. Judges may, for example, suspend payment of costs when they have no legal authority to do so (occasionally a judicial protest against excessive costs imposed by legislatures); judges may impose fines in cases where their authority to do so is constitutionally dubious; judges may attempt to make a fine a condition of probation or to tie it to a jail sentence in a way that is not legally clear. Court officers cannot play judge, but in their capacity as fine administrator, they should provide the court some feedback on problems of fine administration arising from judicial orders or judgments.
- **Examination of Delinquencies for Causation.** Courts need to know if their judgments are enforced and, if not, why. Fine administration requires that:
 - judges know potential fine collection and actual fine collection;
 - delinquency analyses provide insight into which type of defendants and which type of cases produce the most delinquencies; and
 - suggestions be made on whether fine judgments are really practical in certain types of cases.
- **Collection by Embarrassment.** Some jurisdictions (e.g., Arlington, Virginia) publish names of persons who owe substantial money to the

court. When publication takes the form of newspaper accounts of court activities, it does produce some payments.

- **Collection Priorities.** Any fine administration system should have a priority in the collection and disbursement of moneys due to the court, if payments do not equal the total due amount. This priority may be statutory, but it is typically determined by court rule. Kansas Administrative Order No.41, March 6, 1984, set the priorities for collection and distribution of criminal and juvenile offender collections as follows: (1) docket fees; (2) costs (including probation services fee or alcohol safety action program assessment); (3) fines; (4) reparation or restitution; and (5) reimbursement of counsel and other defense costs to the State Board of Indigents' Defense Services.
- **Civil Judgments.** To facilitate collection of unpaid fines, fees, and costs, some states, notably Washington, enter both a criminal and civil judgment. The latter judgment can be enforced more flexibly by such means as civil contempt and garnishment.

E. Organizational Changes to Improve Financial Management

1. State Level Collection Office

Colorado has established a "Collections Investigator Program" in the State Administrative Office of Courts. The program is directed at reducing the number of accounts receivable by front-end investigation at the time of conviction to determine whether deferred payments are necessary and then following up with an intense collection effort. The program relieves judges of an administrative routine and increases the rate of collection.

2. Central Violations Bureau

The term "central violations bureau" usually refers to an office that processes fines on petty violations (usually traffic cases) for a state or region. Rhode Island and Connecticut, for example, process fines on petty violations through a statewide bureau. Federal courts are authorized to establish central violations bureaus on a district or circuit level.

In general, central violations bureaus are established for reasons of efficiency and control. The perceived advantages of such bureaus are:

- improved ability to cope with the fluctuations in the number of charges made by individual law enforcement agencies;
- pooling of personnel formerly in various small offices usually leads to more efficient use of their time;

- improved ability to implement a uniform policy for processing petty violations;
- introduction of mass production methods, which are not possible in small offices;
- instituting uniform accounting methods and improved controls;
- more data-processing efficiencies and elimination of small local systems, often manual; and
- expediting flow of information to other agencies, particularly motor vehicle departments.

However, centralized systems may have disadvantages:

- it may be hard to absorb existing collections personnel if they have to move to a central location;
- citizens have fewer opportunities (i.e., places) to pay in person;
- personal contact between court employees and law enforcement officers is reduced; and
- significant outlays may have to be made to start up the system (experience indicates that these outlays are recovered through efficiencies).

Assuming that a decision is made to create a central violations bureau, courts typically take the following steps:

- develop a systemic outline of how the bureau will operate;
- write functional specifications for the required computer programs and hardware specifications based on the outline;
- enact appropriate legislation and court rules;
- design, purchase, and distribute necessary forms;
- provide a facility;
- reallocate existing personnel and hire such additional personnel as may be necessary;
- write and test computer programs;
- establish liaison with other agencies; and
- train court personnel and law enforcement personnel.

It is possible to include a bank lockbox system in the above steps. Because centralized systems have unusually high reliance on payment by mail, processing can be expedited by having a bank directly access the receipts. This also enhances cash flow. Not all incoming mail lends itself to processing, and so any centralized system must include provision for returning certain cases to the courts in which they originated.

Examples of such returns might be:

- receipt of a plea of not guilty in a traffic case;
- defect in the initial charge or in the penalty assessed;
- new information that affects the initial charge (e.g., the driver was operating a vehicle when his or her license was suspended); or
- payment not received by a prescribed date.

3. Enforcement Courts

New Jersey has enjoyed success in using a special court to handle enforcement of payments due the court. Although it is not uncommon for courts to have calendars devoted to enforcement actions, it is highly unusual and quite effective to have a judge allocated to this function.

IX. ADMINISTERING COLLECTION OF PASS-THROUGH PAYMENTS

Court managers have a responsibility to administer court-ordered payments from one party to another when the payment is made through the court; the principal example is payment of support, alimony, or restitution. Administration of these "pass-through" funds differs from administration of fines or escrow accounts and is best treated separately because of its unique characteristics.

Restitution: Restitution, unlike support and alimony, arises in a criminal context and may be a condition of probation (fine payment may also be a condition of probation). Restitution may be payable in lump sum or installments. The payment is to a court officer, even though the court will then cut a check to the person receiving restitution. Thus, restitution constitutes a court receivable. From an accounting viewpoint, restitution is treated like a deferred or installment payment of a fine and would be delinquent under the same terms as a delayed fine payment. However, restitution delinquency is more likely to involve a probation violation hearing.

Support/Alimony: These payments normally arise in a civil context although nonsupport or custody proceedings are sometimes criminal in nature. Support and alimony payments are unique in that there is no fixed total balance, simply periodic payments on or before a certain date, terminating only after some event relieves the payor of responsibility (e.g., a minor reaches adulthood or a previous spouse dies). Payments are normally payable to a court officer, who in turn writes a check to the payee, perhaps extracting an administrative fee. Since many support cases are governed by the regulations of federal IV-D programs, the court has a responsibility to observe the program guidelines.

A court manager must establish an arrearage system and be prepared to act without awaiting a payee complaint. This system is not really an account receivable system, because there is no total balance of money receivable.

A. Collection and Distribution of Restitution Payments

Restitution, unlike most financial sanctions imposed by criminal courts or juvenile courts, is payable directly to an outside party (the victim) rather than to governmental treasuries. In this sense, the management of restitution payments is analogous to management of support and alimony payments. But, unlike support and alimony payments, which are ongoing and not limited in total amount to be paid, restitution involves payment of a specific amount of money, which can be totally paid in a lump sum or handled in installments until the restitution award is paid in full.

Adult and juvenile restitution are managed in approximately the same way. However, record confidentiality in juvenile courts may extend to all case records;

moreover, some juvenile courts are more likely to use a fairly formal contract to record the payor's obligations and how they will be met.

Restitution orders normally require that payments be made to a court agency, rather than directly to the victim. This creates an audit trail and permits detection of delinquency. It is, however, possible under the law of some states for restitution payment to be made a condition of diversion, or even probation, without an explicit court order. In such cases, payment is usually made directly to the victim with proof of payment made to the administering agency.

The records maintained on restitution payments are fairly similar to the records maintained for any payments processed through a court for the benefit of a third party. Among the records maintained are:

- a payment record with header information on the offender, the amount to be paid, cross-reference to the order (usually a minute entry), the administering officer, the dates of payments and also a journal section to record receipts and disbursements by date;
- the order;
- an individual subledger card recording debits and credits;
- payment plan or contract, including the terms of payments, the acceptable forms of payment (e.g., cash, money order, cashiers check, etc.), the person or agency to which the check will be directed, any administrative surcharges, and penalties for nonperformance; and
- satisfaction of judgment form.

Disbursements may be made upon receipt of payments, or held and paid out when money accumulates to a certain level, for example, the \$100 level. Restitution is rendered more complex if there are co-defendants, more than one victim, or more than one offense. Thus, some priorities should be set, for example:

- all co-defendants will be treated equally; payments to each individual will be in proportion to the amount owed;
- where there are separate orders of restitution arising from separate offenses, the victim of the first encounter will be paid in full before the victim of the second encounter receives any disbursement;
- restitution payments to individuals will take precedence over compensation to an insurance company, the government as victim, or corporate victims; and
- no payments will be forwarded to any victim until a minimum \$10 payment can be made to each victim injured by a particular offender.

Follow-up on nonpayment is the key to good restitution management. Within one week after a payment has become overdue, the program officer should initiate a follow-up letter or telephone contact to request payment. The victim should be informed of the delay (usually by a copy of the letter).

No more than a week should be allowed for payor response, at which point, the payor should be required to meet with the program officer. If the payor is a juvenile, his or her parents should be at the meeting.

B. Collection and Distribution of Child Support

When an absent parent is legally obligated to pay child support, the order establishes the amount to be paid, the schedule of payments, the method of payment, and where payments are to be sent or presented. When a custodial parent is on welfare, the payment in excess of \$50 is distributed to the AFDC fund. Non-AFDC payments are disbursed to the custodial parent. Each payment by an absent parent must be related to the correct case, so that adherence to orders can be monitored. In many child support enforcement agencies, these functions are handled by a specialized unit of workers whose duties may include the following:

- receiving payments and matching them to cases and absent parent accounts;
- posting or crediting payments to the accounts;
- distributing and disbursing funds;
- accounting for all funds received and disbursed;
- preparing and sending monthly billing notices;
- preparing and sending delinquency notices;
- maintaining all payment records; and
- preparing reports.

The details of the process differ from state to state, and so specific state laws and regulations must be consulted. Moreover, there are a variety of federal statutes and regulations that must be consulted.

X. ADMINISTERING ESCROW OR CUSTODIAL ACCOUNTS

Court managers have a responsibility for funds held for the benefit of a party to court proceedings. Sometimes, these funds are referred to as escrow funds, sometimes as registry funds. In fact, there is no hard and fast definition. Some jurisdictions, New Hampshire, for example, have a very broad definition of "escrow" and include time payments of fines, support payments and restitution under the heading of escrow accounts. For the purposes of this section, the governing definition is that used by Maine:

Escrow accounts are special accounts where the funds in the account do not belong to the account holder, but the account holder has fiduciary responsibility for the funds for a given period. Cash bail is a specialized form of escrow account (*Fiscal Procedures for the Judicial Department*, p. I-2).

By far the most troublesome escrow account is the escrow account for cash bail. This type of account is given special treatment below. Long-term trust accounts also have unique characteristics and are separately treated. Other escrow accounts are treated generically.

A. Cash Bail

General Considerations: The most difficult escrow account to administer is cash bail. This type of account is peculiarly subject to abuse for the following reasons:

- cash bail may be posted at various locations away from the court's immediate financial control and may be received at odd hours;
- because cash bail may be posted at odd hours and involve people who are strangers to the jurisdiction (for example, visitors to a resort area), courts sometimes have different requirements for the acceptability of checks and credit cards for bail than they do for payment of fines;
- courts large enough to have a specialized bail unit may not be able to achieve the proper diversification of financial functions within the unit;
- bail funds are often kept in interest-bearing accounts, requiring accountability for interest accumulation;

- bail accounts tend to accumulate funds when persons do not reclaim the bail to which they are entitled, thus inviting an attempt to siphon off the accumulation;
- cash bail is often forfeited, requiring vigilance in transferring forfeited cash bail into government treasuries;
- refund payments are frequent and are often complicated by set-offs for fines and fees;
- questions arise as to whom cash bail refunds are payable, because the surety is often someone other than the defendant;
- because of the above problem, it is sometimes not clear when fine and fee set-offs can be extracted from a cash bail refund; and
- finally, a set-off may not equal the amount of the fine and fee, requiring some scale of priorities in applying cash bail.

To deal with the problems listed above, court managers must address a number of the following administrative issues.

Receipt of Funds. The first issue in any bail system is whether to accept personal checks and credit cards. Almost invariably, personal checks are not accepted, but exceptions may be made for licensed attorneys. Credit cards are still not widely used but may, if accepted, prevent a visitor or stranger from spending time in detention. Some courts will permit release on a called-in credit card number (e.g., a distant parent bailing out an arrested son or daughter). Credit cards seem particularly useful for off-hour arrests of persons not resident in the community.

Collection at Outlying Offices. A second issue is handling bail collected at outlying locations, such as a jail, magistrate's or bail commissioners' office. All officials accepting cash bail must be included in the cash bail system for control purposes. Specifically, they must:

- use pre-numbered receipts; use bail forms that are pre-numbered and capture basic data required by the system;
- use secure areas for money storage;
- turn over the money to the court with supporting lists and documentation;
- issue a receipt certifying that the amount received is correct and place the employee's signature on any supporting list; and
- be covered by fidelity bonds.

Courts must also prevent commingling at the court of cash collected at outlying locations with cash collected over the counter, and they must also prevent any counter clerk from handling money received from outlying locations.

As in any cash handling system, there must be a receipt system with pre-numbered forms issued sequentially. In a high-volume court, there may be a separate set of receipts for bail. Receipts alone do not suffice; they must be related to a bail form (the nomenclature varies by jurisdiction), which provides a control against which the number of receipts issued and amounts of money received are measured. The bail document and receipt form can be machine-validated. Ultimately, the cash received must be reconciled with receipts and bail forms.

Bank Accounts. Cash bail is normally kept in a special interest-bearing account. The accumulation of funds in cash bail accounts typically means that they have a high running balance. The interest normally accrues to governmental treasuries; forfeitures are also transferred to governmental treasuries, as are unclaimed funds. Many systems permit far too heavy accumulations of funds because they do not stringently control the transmittal of money to governmental treasuries.

Several means exist to control accountability for distribution of accumulated interest, the most basic being the inclusion of interest in the receipts component of the accounting system. Also important are strictly enforced regulations for transmitting interest to the legally designated government recipients. If this recipient is the state, the interest can be periodically transmitted to the state administrative office of courts with appropriate documentation (normally bank statements). The administrative office serves as a monitor and a conduit of funds into the state treasury. Under any circumstances, the person responsible for cash bail accounts should regularly report the accumulation of interest to another official.

Similar control should be exercised over transmittals of money abandoned by failure to cash a refund check or claim a refund. State law may permit such abandoned funds to accumulate over a long period of time, inviting trouble. Any cash bail system should maintain a record of returned checks and should be able to identify bail accounts for which the case has been disposed without forfeiture and without any claim for refund. Generally, even forfeiture may not occur until legal steps have been taken to effectuate the forfeiture; this is a further cause for amounts to accumulate unduly.

A court manager must ensure that:

- returned bail refund checks are logged in and held separately, pending a determination on abandonment and escheat;
- cases where a defendant has failed to claim a refund are quickly identified; and

- forfeited bail does not languish in the cash bail account but is quickly identified in accounting records and transmitted to the appropriate place (often a fines and fees account).

Refunds. A cash bail system is very vulnerable at the point of refund. Stated simply, dishonest persons may identify abandoned bail and institute a fraudulent refund claim. Precautions are necessary to avoid fraud:

- refunds must be by a check that identifies the case number and the nature of the transaction;
- separate pre-numbered set of checks for cash bail refunds should be used in a large court;
- the person claiming a refund should produce a receipt showing that bail was paid and the same person should acknowledge receipt of the refund check on prescribed forms;
- the claimant should identify himself or herself as the actual payor (very often the surety is someone other than the defendant);
- the court papers must reflect an authorization to issue a refund and the case records must reflect this refund; and
- two signatures should be required on the refund check.

A special problem exists if there is a set-off, because a computation is required to determine what portion of the cash bail payment applies to fines and fees and which portion is refundable to the surety. First, it must be determined that the payee is the defendant because a surety cannot normally be forced to accept a set-off. If the set-off is less than the amount of the cash bail, a check is issued for the difference. In some courts (depending on the bank account structure) a check will also be written for the amount of the fines and fees, thus serving as a transfer document between accounts. In any event, the bookkeeping entries would reflect the division of the cash bail between a refund and fine payment.

If the cash bail does not equal the amount of the fine and fee and the cash bail is being used as a set-off, another problem arises. The court must determine the order of priority in applying the bail to the required payment. Thus, for example, any existing penalty will be paid first, then the fees and then the fines. If the defendant can pay the remainder of the fine, then there must be a separate transaction process. If the defendant cannot pay the fine remainder and is eligible for a delayed payment, a receivable must be created and the defendant given a payment plan.

B. Managing Trust Funds

There are a variety of legal proceedings that result in the deposit of money with a trial court, among them condemnation proceedings, lien foreclosures, liquidations, dissolutions, sales of infants' lands, receiverships, trustee accounts, interpleaders, partitions, dower-curtsey interests, and cash in lieu of bonds. This imposes on trial courts

the responsibility for administering these moneys, accounting for them, and observing the pertinent legal provisions.

1. Administration

Locus of Administration and Administrative Costs. Under state law, clerks of trial courts and clerks of probate courts are very often designated as the officials responsible for the administration and investment of trust funds and for the execution of court orders with respect to such funds. The responsible officials usually operate within a variety of legal and regulatory constraints imposed by statute, administrative rules of court, and directives of state comptrollers and state court administrators. The costs of administration are typically defrayed, at least in part, by an administrative fee established by statute or rule of court. This fee will normally go into the general fund and will not be directly tied to the actual cost of administration. Fees are frequently based on a percentage of the dollar volume processed. New Jersey law, for example, requires that the following percentage fees be collected on payouts from trust fund accounts: 2½ percent on the first \$100; 2 percent on the next \$900; and 1½ percent on the excess over \$1,000 (N.J.S. 22A:2-20).

The problems of local administration are that (1) the choice of depositories may not be very competitive; (2) interest returns may be low, particularly if it is not possible to commingle funds for investment purposes; (3) expert investment advice may be lacking; and (4) administrative costs may be high in relation to the amount of the funds.

An attractive alternative to local administration is the pooling of trust funds in a central account administered at the state level. This arrangement permits greater return on investments through aggregation of funds for investment purposes (although the funds are accounted for individually), economies of scale in fund administration, and greater access to investment advice. Since 1948, the Chief Justice of the New Jersey Supreme Court has served as the trustee of all moneys brought into the Superior Court of New Jersey (N.J.S. 2A:15-73, 15-74). Pursuant to Rule 4:57-3, New Jersey Rules of Civil Practice, the Chief Justice appoints three persons experienced in the investment of funds to serve without compensation on an Investment Advisory Committee that counsels the Chief Justice on investment decisions. In addition, the New Jersey court system has another statewide fund for trust funds deposited with surrogates (basically probate clerks).

The actual administration of the Superior Court Trust Fund is handled through the Administrative Director of the Courts in accordance with the directions of the Chief Justice. Administration of the Superior Court Fund (roughly \$150 million) is handled by a Special Funds Unit within the Management Services Division of the Administrative Office of Courts. This unit consists of a supervisor, two bookkeepers, and a part-time typist. The Superior Court also employs an attorney to help the unit. Administrative costs are paid from the earnings of the trust fund itself, so that distributions to all trust accounts are based on period earnings minus administrative costs. (See N.J.S. 2A:15-74.)

Investment Decisions. Normally, state law will determine the investment options for governmental entities holding funds in trust. Courts are usually bound by this and may, in fact, further restrict investment options by administrative rules of court. Illustrative of the investment options are those permitted under New Jersey law:

- (1) bonds and securities of the United States;
- (2) interest-bearing bonds of such character and description as are or may be lawful investments for moneys deposited with the savings banks of this state; and
- (3) bonds secured by mortgages which shall be a first lien upon improved real estate situate in this state worth at least double the amount loaned thereon. (N.J.S. 2A:15-73)

In actual practice, all investments for the New Jersey Superior Court Trust Fund are in U. S. government securities with maturities of five years or less.

Legal authority must exist for the investment of funds and the commingling of trust funds for investment purposes, as for example, is done in New Jersey:

For the purpose of making such investments, money remaining to the credit of different persons or causes may be commingled. The moneys so deposited or invested, and the securities in which the same may be invested, shall be from time to time accounted for, invested, transferred, reinvested, or otherwise disposed of, as the chief justice shall deem reasonable and proper; and the interest and income derived from such investments, after deducting expenses, losses and reserves for protection thereof, shall be apportioned to the several parties entitled thereto at such rate as the chief justice shall from time to time determine. (N.J.S. 2A:15-73.)

As indicated in the above statute and in Rule 4:57-5, New Jersey Rules of Civil Practice, the rate of interest and interest apportionment are within the discretion of the fund administrator, who, in New Jersey, is the Chief Justice. Since 1984, the New Jersey Superior Court Trust Fund has used a variable rate, based on the actual net yield of the fund (income from investments minus operational expenses of the fund) in the previous month. Income on individual accounts is earned from the day of deposit and is apportioned semi-annually.

Choice of depositories and dealing with depositories are important aspects of administration and may be politically controversial if the authority to choose depositories

switches from local elected officials to state-level officials. When control of investments passes to the state level, these important functions will be exercised by a state official, probably the state court administrator. In New Jersey, for example, the Chief Justice has authorized the Administrative Director of Courts and the Assistant Director for Management Services to sell, purchase, and exchange trust fund securities, in consultation with the trust officer of the bank chosen as depository at the state level.

Protection of Beneficiaries. The point of trust fund administration is to maximize the income of beneficiaries without endangering their principal. Among the protective devices are:

- creation of a reserve account to protect against capital losses on the sale of U.S. government securities, to guarantee payment of the established interest rate in the event of diminished earnings, and to pay for costs of phasing out the fund, if that should occur; and
- limiting deposits in each financial institution to the insured amount (See Rule 4:57(b), New Jersey Rules of Civil Practice).

2. Accounting

If costs of fund administration are paid from fund income, there should be an annual budget. Generally, the expenditures from the fund for administration will take the form of a reimbursement to the agency that budgets these costs in its annual budget, for example, an office of court administration. Each reimbursement would probably follow a fund audit and be based upon it.

In most jurisdictions, however, there will be no formal budget for fund administration, and to the extent there is any offset to administrative costs, it will probably take the form of administrative fees that flow into the general fund. In other words, the offset would not be directly reflected in the trust fund.

The elements of an accounting system for trust funds are as follows:

- an automated general ledger tied to the docketing system with a court-specific chart of accounts;
- the entry of financial information on cash receipts, cash disbursements, journal entries, and investments;
- the ability to generate the following reports:
 - Monthly Summary of Docket Activity, showing by individual docket number the amounts deposited and withdrawn in the month, interest accrued in the month and year-to-date, and the total balance for each docket;

- Monthly Interest Report reflecting the monthly gross interest earned on investments of the fund and net interest percent (i.e., the gross interest less expenses) that is applied to all docketed cases on the books of account;
- the ability to generate standard accounting reports:
 - receipts and disbursements register;
 - check register;
 - journal entry register;
 - investment register;
 - basic accounting statements (profit and loss, balance sheet); and
- the ability to generate 1099 forms to recipients of interest.

Trust fund accounts must be audited at least annually. Rule 4:57-3(a), New Jersey Rules of Civil Practice, requires a semi-annual audit, which is tied to the semi-annual apportionment of interest and the reimbursement of the state for the costs of fund administration. Similar audits are required at the trial court level for custodial funds not in the state system (Rule 4:57(b), New Jersey Rules of Civil Practice). Audits are considered an operational cost and thus affect the rate of return to beneficiaries.

3. Legal Issues

Trust funds revolve around court orders, some of which occur within relatively complex, somewhat esoteric areas of the law. The legal integrity of the fund requires that orders be correctly interpreted and that they conform to the law. Some review of orders is necessary, if not by an attorney, then by a specialized court employee knowledgeable in the area, as exemplified by New Jersey rules.

Orders to pay out shall be reviewed by the Clerk, or other person designated by the Chief Justice, prior to payment. No draft or check shall be drawn until the reviewing party has established that:

- (1) the order is consistent with the account records as to the amount involved;
- (2) all interested parties have received notice of, or have consented to, the application to have the money paid out; and
- (3) the order correctly identifies affected parties and those to whom payments are to be made. (Rule 4:57-3, New Jersey Rules of Civil Practice.)

Some states permit trust funds to be attached for the satisfaction of a judgment (e.g., N.J.S. 2A:15-75); usually, states have some provision for the disposition of unclaimed funds by escheat to the state treasury after some specified period of years (e.g., N.J.S. 2A:15-76 et seq.). Because the definition of "unclaimed funds" is rarely

satisfactory, the process of claiming these funds in the name of the state is not always pursued with great vigor by the prosecutorial offices with the responsibility for bringing about the transfer of these funds to general treasury accounts.

Interest on trust funds is reported to the Internal Revenue Service, and 1099 forms should be sent annually to recipients of interest. However, it is not always clear who will be the ultimate recipient of a trust fund. The issue is further complicated if an attorney is involved, because the distribution may be made through the attorney who could be identified as the person responsible for taxes on the interest. There is no entirely satisfactory way to handle 1099s for a recipient who has not been definitely recognized, but some states (e.g., Maine) identify a probable recipient and use the tax identifier of that party to report interest income. In the event that the probable recipient does not ultimately receive the reported interest, adjustment forms are filed with IRS.

C. Other Escrow Accounts

Cash bail resembles an escrow account in that the court assumes responsibility for holding money over a period of time for payment to a person designated by the court as authorized recipient. Escrow accounts differ from cash bail in the following ways: (1) the final disbursement is generally not to the original payor (i.e., the payor and payee are different); (2) interest accrues to the beneficiary of the escrow account; (3) setoffs are rarely applied against escrow accounts.

Certain principles govern management of all escrow funds. Specifically, there should be:

- written procedures for entering and updating registry fund transactions in books of account that are secured;
- investing or depositing funds in interest-bearing accounts that are collateralized;
- written designation of employee responsibility for the funds;
- periodic reconciliation of funds with accounting records and depository records; and
- observance of legal requirements and court orders.

XI. INTERNALLY GENERATED COURT FUNDS

Court managers face control problems associated with retention of court-collected revenues in special funds that are used by the court or court official (e.g., a clerk) to make court-related expenditures. These retained revenues are termed "internally generated funds," because they are received through the internal financial processes of the court independent of the appropriation process. Internally generated funds are not always subject to the controls exercised over general fund appropriations and, therefore, require special measures to prevent misuse and to ensure public accountability.

Internally generated funds are normally authorized by statute or ordinance, but they may, on occasion, be established by rule of court. Rules may be based on inherent power, but more often, they are used when a statute permits courts the option of imposing a particular fee or cost and perhaps setting the amount of the fee cost within a range determined by statute. Internally generated funds may be dedicated by law to very specific purposes, among them:

- law library operation;
- court automation;
- fees to pay particular types of court personnel, such as court reporters;
and
- costs of indigent defense.

By legal definition, these types of special funds must be spent for particular purposes and may be subject to control by boards or commissions. Generally, the fund managers must comply with financial reporting requirements established by law. Courts, on the other hand, are not always subject to such constraints. Some courts have internally generated funds that are not restricted in purpose and can be used to pay any court-related expense. Such funds are basically discretionary and can be used, for example, to advance travel money; to supplement salaries; to purchase equipment or furnishings not easily obtainable through the budget process; and to pay front-end expenses of facility expenditures, such as architectural designs. These general purpose funds are particularly vulnerable to misuse or lack of careful scrutiny by court managers.

The most basic policy consideration is whether a court should seek to obtain or to retain internal funds for its own use. The "pluses" are obvious--such funds permit a court to insulate itself against the unpredictability of the budget process and to enjoy greater latitude in making expenditures. The "minuses" are less obvious but nonetheless important: (1) earmarking particular costs or fees for a specific purpose rarely provides a match between the amount needed and the amounts collected, so that excess funds accumulate (inviting waste) or the amounts collected prove inadequate to serve the specific purpose; (2) using criminal court costs or fees to cover court expenses raises serious ethical problems, because the court has a monetary stake in judgments it imposes;

and (3) most important, the very latitude provided by internally generated funds poses possible problems of fund misuse and lack of accountability.

If a court does have internally generated funds, they must be carefully administered. The basic question is whether to stress the latitude of the court or to give up considerable latitude in the interest of control and accountability. If the latter choice is made, a variety of other considerations arise, among them:

Fund Administration. Accountability requires that some court official be designated as fund administrator, normally someone other than a judge.

Expenditure Sign-offs and Check Writing. The court must consider that an expenditure approval system involves officials in addition to the fund administrator. All checks should be countersigned.

Budget. To avoid the use of any fund as a "slush fund," good accounting practice requires that the court adopt a budget en banc and direct the fund administrator to abide by it.

Choice of Fiscal Agent. State law normally imposes a duty on public agencies to choose banks competitively. This should apply to any special funds kept by the court.

Accounting and Audit. Occasionally, special funds fall outside normal accounting and auditing procedures. As a matter of policy, a court should maintain normal books of account for such funds and subject them to annual external audit. Classification of expenditures should likewise follow normal accounting practice, so that vague and cryptic categorization of expenditures is avoided.

Advances. Some special funds are used to advance money for travel or other expenses that are reimbursable to the fund. In such instances, the court must require an accounts receivable system.

Purchasing. Latitude in making purchases necessarily entails latitude in purchasing procedures. The court has the option of following normal competitive procedures or avoiding them.

In the final analysis, a court has to strike a balance between flexibility and sound financial management.

XII. COMPUTERIZED FINANCIAL SYSTEMS

Most high-volume court systems have automated accounting systems that are a central element of internal control. The options are many, but the basics of a sound system remain essentially the same. In a court system this means that there is a link between the accounting system and the case tracking system. The National Center for State Courts, in its SJI-funded *Court Technology Reports, Volume 4, 1991*, identified Oregon's Financial and Accounting system (FIAS) as a good example of an automated system. The essential elements of the system, as reported by the NCSC, are indicated below.

A. FIAS: An Overview

Oregon's FIAS is a case-based financial system that records court-ordered financial obligations when a disposition is rendered. FIAS tracks the money received from obligors and distributes it to the proper sources.

FIAS operates in conjunction with a case-tracking system called OJIN. A case must exist in OJIN before any financial transactions will be accepted by the financial system. The two applications, OJIN and FIAS, are interfaced when a disposition is added as an event to the register of actions. FIAS handles the nonfinancial aspects of the sentencing and adds each of the financial elements pertaining to the transaction (e.g., fines, fees, and restitution) to the case history. FIAS subsequently creates accounts receivable entries for the transaction. An accounts receivable entry may also be created independently of a sentencing transaction, e.g., a partial payment of a fine.

FIAS can set up installment payments and generate a scheduled payment list for monitoring purposes. The system also tracks cases that have been turned over to the Department of Revenue for collection.

FIAS receives and distributes restitution money. Installment payments to multiple victims are automatically distributed either by equal payments, percentage payments, or sequentially by victim. In the instances where multiple defendants have joint and several obligations, multiple cases are linked to provide a financial history for all defendants for all cases.

Another important component of FIAS is cashiering. When trust and revenue money is paid to the court, an entry is created in FIAS that updates the case financial history and produces a printed receipt for the payer, if desired. If the amount of cash received is greater than that required to satisfy an obligation, the system will calculate the correct change. For cash-drawer reconciliation purposes, FIAS tracks the amount of money received by the court each day and provides summary and detailed cash-drawer reports that itemize receipts according to payment form (i.e., cash, check, or money order).

Revenues received by the courts are disbursed to various agencies based on state and local requirements. FIAS can accommodate a variety of distribution schedules. Each court may devise and update its own distribution schedule and print checks to designated recipients.

FIAS automatically disburses money held in trust for restitution. The system holds the release of trust payment funds paid by personal check until the check clears the bank. If multiple transactions are designated for a single payee, the system combines the payments into a single check.

FIAS's double-entry accounting system posts each transaction to a minimum of two general ledger accounts. Daily transactions are posted to the general ledger accounts during nightly batch routines at each site. From these nightly postings, the system generates daily journals and error reports. The court staff corrects the errors on the following work day. A balance sheet is generated at the end of each accounting cycle to ensure that all accounts are balanced.

The principal FIAS routines are:

- Receivables
- Disbursements
- Pass-through Payments
- Fund Transfers
- Case Transfers
- Adjustments

B. Receivables

Receivables routines add sentencing events to the register of action, create accounts receivable transactions, and create a judgment in civil cases.

When a sentence order or final disposition is issued by the court, it is recorded in FIAS as an event in the register of actions. If financial obligations or restitution are incurred in the sentence, FIAS automatically creates receivable accounts. In a separate routine, the victims' names and addresses are added to the case history. If restitution is ordered for more than one victim, the system creates a separate receivable account for each victim. Restitution by installment is specified for automatic disbursement by three methods: (1) equal amounts of each payment distributed to each victim; (2) an established percentage of each payment distributed to each victim; or (3) complete payment to the next victim until the obligation is satisfied. If more than one case is linked to a restitution obligation, joint and several receivables are created for multiple defendants. One case, designated the master case, carries the joint and several receivables. The related case histories show the existence of joint and several receivables, but do not create a case liability.

The user accesses this information by entering the appropriate instruction at the FIAS command line, followed by the case number. The system automatically provides the sentence number (more than one sentence may be added to a case history). The user enters the charge number, the sentence type, the current date, as well as the date that the judge signed the sentence order. The user then enters the termination stage and the termination type in coded form. To close a case on the system, the user must enter a "Y" in the "close" field. A case can be closed on the system even if there are outstanding financial obligations. There are free-form text fields for comments.

The court can enter financial information. The system provides the current date as the transaction date. If restitution is ordered, the user enters the receivable due date and a payment priority code to designate how the money is to be distributed. The codes entered on the screen create accounts receivable or judgments as necessary. The user stipulates the distribution of restitution on this screen.

The sentencing routines provide for (1) recording concurrent sentences; (2) updating previously entered sentence information; (3) deleting a sentence due to clerical error; (4) voiding a sentence due to court order; and (5) modifying a sentence pursuant to a pleading or a probation violation.

The receivables aspect of the sentencing routines provides a number of management reports. An accounts receivable ledger lists the date, description, amount owed, amount paid, and balance due for each outstanding receivable. An accounts receivable aging report categorizes the receivables by aging periods, and a Department of Revenue (DOR) report tracks cases assigned to DOR for collection.

For cases involving restitution, the user may create one payment schedule for each case. A payment schedule report lists the case number, name, payment amount, payment interval, status, latest payment date, next payment date, final payment, current amount, and total amount due and the amount paid to each victim.

In civil cases, a judgment event may be added to the register of actions and a notice of judgment may be printed.

The user enters the judgment type and status information on one screen and the financial information on a second screen. The user may update, delete, void, and modify judgment entries. A modified judgment is entered as a result of a court order and supersedes, but does not remove, an original judgment.

C. Receipts

The receipt routines record and track revenue and trust money collected by the court. In the Oregon court system, revenue is collected over the counter, by mail, or at a violations bureau. When a court receives payment, a cashier receipts the money using the Add Receipt screen.

The user accesses the Add Receipt by entering the appropriate instruction at the FIAS command line, followed by the case number. The system generates the next receipt number. The transaction date and original receipt date default to the current date.

The user enters the form of payment (check, cash, or money order and indicates "Y" or "N" if a receipt is to be printed. Any outstanding balances associated with the case is less than the total obligation due, the money will be applied in the order in which the balances appear, unless the cashier indicated otherwise. If the payer makes a cash payment, the cashier enters the total amount, and the system indicates any change due. If a noncash overpayment greater than \$1.00 is received, the cashier receipts the overpayment into a miscellaneous trust fund and a disbursement is issued. Overpayment less than \$1.00 are recorded as miscellaneous revenues. If an error occurs in the receipting process, the cashier may update or void the transaction, depending upon the type of the error.

The cashier receipts bail or security releases, civil trust funds, small claims trust funds, miscellaneous trust funds, and support payments. Support payments are received infrequently (support is managed through the district attorney's office). Case-related evaluator fees (the cost assessed by case monitors) are receipted as revenue. Money collected by the DOR on behalf of the court is also receipted, completing an intra-fund transfer.

At the end of each day, cashiers reconcile their cash drawers by preparing a daily settlement sheet and displaying the cash-drawer summary screen on the workstation. If the summary does not balance with the settlement sheet, the cashier can display a cash-drawer detail screen. The detail screen lists all the receipts processed that day in subcategories by payment form (cash, check, and money order). The system does not provide a routine to prepare bank deposits, a feature of some other systems.

D. Disbursements

The disbursement routines distribute the revenue and trust money that were receipted by the cashier. Unlike check-writing transactions, a disbursement transaction indicates in the case financial history the date on which a check can be generated. Throughout the system, FIAS makes a distinction between revenue and trust accounts. This distinction is maintained in the disbursement routines.

The revenue collected by the court is distributed to various state and local agencies based on distribution tables designated in the system. Each type of fine and fee is assigned its own distribution schedule, and each agency or individual receiving revenue is considered a FIAS vendor. Each month, the system combines all the payments for the respective vendors into one check.

Money held in trust by the court is released by court order. If a trust payment is made in cash, the money is available for disbursement immediately. If the trust payment is

a noncash negotiable item, the system holds the release for 10 working days. Out-of-state, noncash negotiable items are held for 15 working days.

Bail and security releases are (1) refunded to the payer, (2) forfeited by the defendant and transferred into the revenue fund, or (3) partially refunded to the payer and partially transferred into the revenue fund. The system automatically withholds 15 percent of a security release as a security release cost. Support, civil trust funds, small-claims trust funds, and restitution are disbursed according to court order. The court can update and void disbursements

Once funds have been cleared for disbursement, a pending check process identifies all unpaid disbursements. After the court reviews the records in the unpaid disbursement file, a data-entry clerk prints the trust checks. The system automatically generates a check register.

The checks issued by the courts are drawn on the Oregon treasury account. During the check-writing process, a status field in the check transaction is coded to indicate that the check is "outstanding." The ISD in Salem receives a tape list of all the checks issued by the courts that have cleared the banks. After the tape is located in Salem, the nightly processing routine at the local court updates the status field of the checks to "cleared." If a check cannot be delivered and is returned to the court, the court changes the status field to "returned."

The court can also void checks. When a check is voided, the system automatically backs out the disbursement. The system provides a complete audit trail for voided checks. The court is also able to record manually issued checks on the system. The system will display a complete financial history of a case.

E. Pass-through Payments

Pass-through payments are noncash payments received by the court that are payable to a third party. These payments are recorded in an Add Pass-through routine; however, this routine does not reduce the amount due on a case. To reduce the receivable due on a case, the court must enter an adjustment.

F. Fund Transfers and Case Transfers

The system can transfer money from one fund account to another. As mentioned above, this routine can transfer bail and security releases held in trust to the revenue fund to satisfy financial obligations to the court. Funds may also be transferred within the same account. Case transfer routines allow money recorded from one case to be moved to another case. Both funds transfers and case transfers may be updated or voided.

G. Adjustments

An adjustment is used to correct accounting records within a trust or revenue fund. The adjustments involve increasing or decreasing a transaction amount. To Add Adjustment routines are used with the routines already discussed in this section of the report.

Other adjustments are made to handle (1) the gain or loss of money incurred from foreign currency exchange, (2) checks returned for insufficient funds, (3) the transfer-out of funds from local court accounts into interest-bearing accounts and the transfer-in of the funds to the local court, and (4) case-related cash-drawer overages and shortages. There is a separate routine for Add General Ledger Adjustments used for cash-drawer overages and shortages that are not case related.

H. Nightly Processing

During nightly processing routines, the system disburses restitution payments, creates revenue disbursements, updates the general ledger, creates a pending revenue report, and prints daily journals and error reports. The system produces a daily journal for each of the routines described in this report.

I. Monthly Closing Routines

The monthly reports generated for the court accountants include:

- the trust payable account;
- a Pending Revenue Report, which is reviewed before generating revenue checks;
- a Revenue Distribution Report, summarizing the revenue distributions made to state and local agencies;
- a General Ledger Trial Balance (before printing, the general ledger accounts are closed to prevent any further adjustments to the monthly balances);
- a Month-end Revenue Report, summarizing the activity in the revenue fund account;
- a Month-end Trust Report Summarizing the activity in the trust account;
- a Trust Detail Report, detailing the money held in the trust by the court;
- an Outstanding-Check List, listing all the system-generated checks that have a status code of "outstanding" or "returned"; and
- a Treasury Account Reconciliation Report, a worksheet used by the accountants to reconcile the treasury account balance and the trust fund liability.

J. Documentation

FIAS documentation offers a variety of information to users and systems personnel that is easy to understand. A technical guide describes how the commands and the screens work and what the screens and the reports do. A user's manual established policy and provides descriptions of processing procedures as well as step-by-step instructions on how to complete each screen. The documentation also includes a Screens Manual, a Command Quick Reference guide, a Command Security guide, a File Relationships manual, and a Data Dictionary. One of the goals of ISD is to provide on-line documentation using Hypertext.

K. System Support

If a screen entry is improperly entered, a message will appear on the bottom of the screen. If the user needs help, he or she can "hot key" to a help screen that describes the entry in greater detail. The user can return to the original screen without losing the information already entered.

In addition to on-line help, the technical support department at ISD offers a telephone hot line and help desk. When a court needs technical support, help desk personnel either solve the problem at the outset or prioritize the request and log the call into the ISD computer. A blinking message light at a workstation alerts an appropriate ISD staff person.

L. System Security

Each FIAS user must enter a password to access the system. This password is known only to the user, and the password may only be changed under the supervision of a system security officer.

FIAS supports multiple security levels. These are used to reinforce the segregation of duty policies employed in the courts. Each user is assigned a security access code for each financial function performed by the system. These security codes may only be updated by the systems security officer. The lowest security level is 00 and the highest is 04.

M. Summation

FIAS is a well-designed financial information system that is customized to meet the needs of the Oregon Judicial System. Several of the features of the system are unique to the Oregon courts; other features are applicable to any court system. One feature that is equally important to all jurisdictions is the separate identification and handling of trust and revenue money. At the onset of a financial transaction, entries are clearly designated as trust or revenue accounts, and this distinction is maintained throughout the system design.

As a result of the separation of trust and revenue accounts, the judicial department receives an accurate financial picture.

CONCLUSION

This monograph provides a detailed overview of policies and procedures pertaining to the collection and control of fines, fees, and costs. The monograph integrates the various discrete aspects of this complex area of financial management, organizing them around a coherent framework. The monograph is offered as a management reference book, a source of ideas, and an encouragement to courts that wish to assert tighter management control over the collection and control of money for which courts are responsible. The last-mentioned purpose is the most important.